



February 22, 2002

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## ENGROSSED HOUSE BILL No. 1329

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DIGEST OF HB 1329 (Updated February 20, 2002 9:11 AM - DI 52)

**Citations Affected:** IC 4-21.5; IC 4-22; IC 8-9.5; IC 13-11; IC 13-15; IC 13-17.5; IC 13-18; IC 16-41; noncode.

**Synopsis:** Public water and wastewater. Permits a political subdivision to receive financial assistance from the wastewater revolving loan fund and the supplemental drinking water and wastewater assistance fund for certain nonpoint source pollution reduction projects. Establishes reduced rate loans to private entities for those projects financed thorough those funds. Limits the amount available from each fund for those purposes. Adjusts the applicability of deadlines for action by the department of environmental management on certain environmental permit applications. Allows refunds of annual permit fees under certain circumstances, and allows the use of annual permit fee revenue to pay consultants who prepare draft permits. Requires the department to report to the environmental quality service council on the use of permit fee revenue. Changes references to "public water supply" in the Indiana Code to "public water system" to conform to federal environmental law. Repeals the definitions of "public water supply" and "water supply system". Establishes the environmental assistance authority to  
(Continued next page)

**Effective:** Upon passage; July 1, 2002; January 1, 2003; July 1, 2003.

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### Weinzapfel

(SENATE SPONSORS — GARD, BRODEN)

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January 15, 2002, read first time and referred to Committee on Environmental Affairs.  
January 28, 2002, amended, reported — Do Pass.  
January 31, 2002, read second time, amended, ordered engrossed.  
February 1, 2002, engrossed.  
February 5, 2002, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 11, 2002, read first time and referred to Committee on Environmental Affairs.  
February 21, 2002, amended, reported favorably — Do Pass.

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EH 1329—LS 7164/DI 52+



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## Digest Continued

administer the wastewater revolving loan program, the drinking water revolving loan program, and the supplemental drinking water and wastewater assistance fund and program. Transfers powers and duties of the agencies that currently administer those programs to the authority. Expands the definition of "participant" for purposes of the wastewater revolving loan fund and program to include entities permitted by law to enter into contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act (in addition to political subdivisions). Makes conforming changes. Repeals provisions concerning certain duties with respect to the administration of the programs and funds that are transferred to the authority.

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February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED HOUSE BILL No. 1329

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A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 4-21.5-3-4, AS AMENDED BY P.L.54-2001,  
2       SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2002]: Sec. 4. (a) Notice must be given under this section  
4       concerning the following:

5               (1) The grant, renewal, restoration, transfer, or denial of a license  
6               by the bureau of motor vehicles under IC 9.

7               (2) The grant, renewal, restoration, transfer, or denial of a  
8               noncommercial fishing or hunting license by the department of  
9               natural resources under IC 14.

10              (3) The grant, renewal, restoration, transfer, or denial of a license  
11              by a board described in IC 25-1-8-1.

12              (4) The grant, renewal, suspension, revocation, or denial of a  
13              certificate of registration under IC 25-5.2.

14              (5) A personnel decision by an agency.

15              (6) The grant, renewal, restoration, transfer, or denial of a license  
16              by the department of environmental management or the  
17              commissioner of the department under the following:

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(A) Environmental management laws (as defined in IC 13-11-2-71) for the construction, installation, or modification of:

(i) sewers and appurtenant facilities, devices, or structures for the collection and transport of sewage (as defined in IC 13-11-2-200) or storm water to a storage or treatment facility or to a point of discharge into the environment; or

(ii) pipes, pumps, and appurtenant facilities, devices, or structures that are part of a public water ~~supply system~~ (as defined in ~~IC 13-11-2-177~~) **IC 13-11-2-177.3**) and that are used to transport water to a storage or treatment facility or to distribute water to the users of the public water ~~supply system~~; **system;**

where a federal, state, or local governmental body has given or will give public notice and has provided or will provide an opportunity for public participation concerning the activity that is the subject of the license.

(B) Environmental management laws (as defined in IC 13-11-2-71) for the registration of a device or a piece of equipment.

(C) IC 13-17-6-1 for a person to engage in the inspection, management, and abatement of asbestos containing material.

(D) IC 13-18-11 for a person to operate a wastewater treatment plant.

(E) IC 13-15-10 for a person to operate the following:

(i) A solid waste incinerator or a waste to energy facility.

(ii) A land disposal site.

(iii) A facility described under IC 13-15-1-3 whose operation could have an adverse impact on the environment if not operated properly.

(F) IC 13-20-4 for a person to operate a municipal waste collection and transportation vehicle.

(b) When an agency issues an order described by subsection (a), the agency shall give a written notice of the order to the following persons:

(1) Each person to whom the order is specifically directed.

(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party on the record of the proceeding.

(c) The notice must include the following:

(1) A brief description of the order.



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(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.

(3) Any information required by law.

(d) An order under this section is effective when it is served. However, if a timely and sufficient application has been made for renewal of a license described by subsection (a)(3) and review is granted under section 7 of this chapter, the existing license does not expire until the agency has disposed of the proceeding under this chapter concerning the renewal, unless a statute other than this article provides otherwise. This subsection does not preclude an agency from issuing under IC 4-21.5-4 an emergency or other temporary order with respect to the license.

(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.204-2001, SECTION 6, AS AMENDED BY P.L.287-2001, SECTION 1, AND AS AMENDED BY P.L.283-2001, SECTION 1, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.



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- 1 (4) An emergency rule adopted by the solid waste management
- 2 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 3 (5) A rule, other than a rule described in subdivision (6), adopted
- 4 by the department of financial institutions under IC 24-4.5-6-107
- 5 and declared necessary to meet an emergency.
- 6 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
- 7 department of financial institutions and declared necessary to
- 8 meet an emergency under IC 24-4.5-6-107.
- 9 (7) A rule adopted by the Indiana utility regulatory commission to
- 10 address an emergency under IC 8-1-2-113.
- 11 ~~(8) An emergency rule jointly adopted by the water pollution~~
- 12 ~~control board and the budget agency under IC 13-18-13-18.~~
- 13 ~~(9)~~ (8) An emergency rule adopted by the state lottery
- 14 commission under IC 4-30-3-9.
- 15 ~~(10)~~ (9) A rule adopted under IC 16-19-3-5 that the executive
- 16 board of the state department of health declares is necessary to
- 17 meet an emergency.
- 18 ~~(11)~~ (10) An emergency rule adopted by the Indiana
- 19 transportation finance authority under IC 8-21-12.
- 20 ~~(12)~~ (11) An emergency rule adopted by the insurance
- 21 commissioner under IC 27-1-23-7.
- 22 ~~(13)~~ (12) An emergency rule adopted by the Indiana horse racing
- 23 commission under IC 4-31-3-9.
- 24 ~~(14)~~ (13) An emergency rule adopted by the air pollution control
- 25 board, the solid waste management board, or the water pollution
- 26 control board under IC 13-15-4-10(4) or to comply with a
- 27 deadline required by federal law, provided:
- 28 (A) the variance procedures are included in the rules; and
- 29 (B) permits or licenses granted during the period the
- 30 emergency rule is in effect are reviewed after the emergency
- 31 rule expires.
- 32 ~~(15)~~ (14) An emergency rule adopted by the Indiana election
- 33 commission under IC 3-6-4.1-14.
- 34 ~~(16)~~ (15) An emergency rule adopted by the department of natural
- 35 resources under IC 14-10-2-5.
- 36 ~~(17)~~ (16) An emergency rule adopted by the Indiana gaming
- 37 commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
- 38 ~~(18)~~ (17) An emergency rule adopted by the *alcoholic beverage*
- 39 *alcohol and tobacco* commission under IC 7.1-3-17.5,
- 40 IC 7.1-3-17.7, or IC 7.1-3-20-24.4.
- 41 ~~(19)~~ (18) An emergency rule adopted by the department of
- 42 financial institutions under IC 28-15-11.

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~~(20)~~ (19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

~~(21)~~ (20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

~~(22)~~ (21) *An emergency rule adopted by the office of Medicaid policy and planning under IC 12-17.7-2-6 to implement the uninsured parents program.*

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection ~~(a)(14)~~;

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(a)(13), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection ~~(a)(14)~~ (a)(13) may be extended for two (2) extension periods. Except for a rule adopted under subsection ~~(a)(14)~~, (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), ~~(a)(9)~~, (a)(8), or ~~(a)(13)~~ (a)(12) expires on the earlier of the following dates:

- (1) The expiration date stated by the adopting agency in the rule.
- (2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 3. IC 8-9.5-9-2, AS AMENDED BY P.L.273-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "authority" means:

- (1) an authority or agency established under IC 8-1-2.2, ~~or~~ IC 8-9.5 through IC 8-23, **or IC 13-17.5;**
- (2) the commission established under IC 4-13.5;
- (3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5;
- or
- (4) a fund or program established under IC 13-18-13 or IC 13-18-21.

SECTION 4. IC 13-11-2-16, AS AMENDED BY P.L.14-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.

(b) "Authority", for purposes of IC 13-19-5, refers to the Indiana development finance authority created under IC 4-4-11.

**(c) "Authority", for purposes of IC 13-17.5, IC 13-18-13, IC 13-18-21, and IC 13-18-22, refers to the environmental assistance authority established by IC 13-17.5-1-1.**

SECTION 5. IC 13-11-2-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.5. "Authorized borrower", for purposes of IC 13-17.5, means:**

- (1) a participant (as defined in section 151.1 of this chapter);**
- (2) a state educational institution (as defined in**



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1 **IC 20-12-0.5-1);**

2 **(3) a leasing body (as defined in IC 5-1-1-1(a));**

3 **(4) a not-for-profit utility (as defined in IC 8-1-2-125);**

4 **(5) the Indiana bond bank;**

5 **(6) a local public improvement bond bank established by**  
6 **IC 5-1.4-2-1;**

7 **(7) any commission, authority, or authorized body of any**  
8 **authorized borrower;**

9 **(8) any organization, association, or trust with members,**  
10 **participants, or beneficiaries that are all individually**  
11 **authorized borrowers; or**

12 **(9) any body corporate and politic, body corporate or politic,**  
13 **commission, authority, or instrumentality of the state.**

14 **SECTION 6. IC 13-11-2-17 IS AMENDED TO READ AS**  
15 **FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) "Board", except**  
16 **as provided in subsections (b) through (j); (k), refers to:**

17 (1) the air pollution control board;

18 (2) the water pollution control board; or

19 (3) the solid waste management board.

20 (b) "Board", for purposes of IC 13-13-6, refers to the northwest  
21 Indiana advisory board.

22 (c) "Board", for purposes of IC 13-17, refers to the air pollution  
23 control board.

24 **(d) "Board", for purposes of IC 13-17.5, refers to the board of**  
25 **directors of the environmental assistance authority.**

26 (e) "Board", for purposes of IC 13-18, refers to the water pollution  
27 control board.

28 ~~(e)~~ **(f) "Board", for purposes of:**

29 (1) IC 13-19;

30 (2) IC 13-20, except IC 13-20-18;

31 (3) IC 13-22;

32 (4) IC 13-23, except IC 13-23-11;

33 (5) IC 13-24; and

34 (6) IC 13-25;

35 refers to the solid waste management board.

36 ~~(f)~~ **(g) "Board", for purposes of IC 13-20-18, refers to the board of**  
37 **managers of the Indiana institute on recycling.**

38 ~~(g)~~ **(h) "Board", for purposes of IC 13-21, refers to the board of**  
39 **directors of a solid waste management district.**

40 ~~(h)~~ **(i) "Board", for purposes of IC 13-23-11, refers to the**  
41 **underground storage tank financial assurance board.**

42 ~~(i)~~ **(j) "Board", for purposes of IC 13-26, refers to the board of**

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trustees of a regional water, sewage, or solid waste district.

(j) ~~(k)~~ "Board", for purposes of IC 13-27 and IC 13-27.5, refers to the clean manufacturing technology board.

SECTION 7. IC 13-11-2-83, AS AMENDED BY P.L.132-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13 **and IC 13-18-21**, refers to an agreement between:

(1) the ~~budget agency~~; **authority**; and

(2) a ~~political subdivision~~; **participant**;

establishing the terms and conditions of a loan or other financial assistance, including **a guaranty or** forgiveness of principal if allowed under federal law, by the state to the ~~political subdivision~~; **participant**.

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

(1) is approved by the budget agency; and

(2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

~~(c) "Financial assistance agreement", for purposes of IC 13-18-21, refers to an agreement between:~~

~~(1) the budget agency; and~~

~~(2) a participant;~~

~~establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant.~~

SECTION 8. IC 13-11-2-93.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 93.5. "Guaranty", for purposes of IC 13-17.5, means a guaranty issued or made by the environmental assistance authority under IC 13-17.5.

SECTION 9. IC 13-11-2-107.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 107.5. "Indiana bond bank", for purposes of this chapter, IC 13-17.5, IC 13-18-13, and IC 13-18-21, means the Indiana bond bank established by IC 5-1.5.

SECTION 10. IC 13-11-2-108, AS AMENDED BY P.L.72-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 108. "Industrial permit", for purposes of IC 13-14-8-11.6 and IC 13-18-20, refers to a National Pollutant Discharge Elimination System (NPDES) permit other than a permit issued to any of the following:



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- (1) a municipal facility;
- (2) a state facility;
- (3) a federal facility;
- (4) a semipublic facility;
- (5) a public water ~~supply~~ **system** facility; or
- (6) a facility for storm water discharge.

SECTION 11. IC 13-11-2-142.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 142.2. "Nonpoint source", for purposes of this chapter, means:**

- (1) a pollution source that is not controlled by effluent limitations established under Section 301, 302, or 402 of the federal Water Pollution Control Act; or
- (2) a pollution source identified in a state management plan produced according to Section 319 of the federal Water Pollution Control Act;

**that is not traceable to a discrete identifiable origin.**

SECTION 12. IC 13-11-2-142.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 142.4. "Nonpoint source pollution reduction project", for purposes of IC 13-18-13, IC 13-18-21, and IC 13-18-22, means a project that results in a reduction of nonpoint source pollution:**

- (1) from farm field runoff;
- (2) through restoration of wetlands; or
- (3) through replacement of failing sewage disposal systems with systems that include sewage treatment features.

SECTION 13. IC 13-11-2-151.1, AS ADDED BY P.L.132-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 151.1. (a) "Participant", for purposes of IC 13-18-13 and IC 13-17.5, means a political subdivision or any person, association, trust, or other entity permitted by law to enter contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act.**

**(b) "Participant", for purposes of this chapter and IC 13-18-21 and IC 13-17.5, means:**

- (1) a political subdivision; or
- (2) any other owner or operator of a public water system;

**except as provided by subsection (c).**

**(c) "Participant", for purposes of IC 13-18-21-21 through IC 13-18-21-29 and IC 13-17.5, means a:**

- (1) political subdivision or other entity described in subsection



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- 1 (a), with respect to a wastewater or stormwater collection and  
 2 treatment system or any other undertaking designed to  
 3 improve water quality or abate water pollution; or  
 4 (2) political subdivision or an owner or operator described in  
 5 subsection (b), with respect to a public water system.

6 SECTION 14. IC 13-11-2-172, AS AMENDED BY P.L.132-1999,  
 7 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2002]: Sec. 172. (a) "Program", for purposes of IC 13-18-13,  
 9 refers to:

- 10 (1) the wastewater revolving loan program established by  
 11 IC 13-18-13-1; and  
 12 (2) use of the wastewater revolving loan fund established by  
 13 IC 13-18-13-2 to place certificates of deposit for the nonpoint  
 14 source pollution reduction project loan program under  
 15 IC 13-18-22.

16 (b) "Program", for purposes of IC 13-18-21, refers to the drinking  
 17 water revolving loan program established by IC 13-18-21-1. The term  
 18 does not include the supplemental program.

19 (c) "Program", for purposes of IC 13-19-5, refers to the  
 20 environmental remediation revolving loan program established by  
 21 IC 13-19-5-1.

22 (d) "Program", for purposes of IC 13-23, refers to an underground  
 23 storage tank release:

- 24 (1) detection;  
 25 (2) prevention; and  
 26 (3) correction;

27 program created in accordance with the requirements of IC 13-23 or  
 28 IC 13-7-20 (before its repeal).

29 SECTION 15. IC 13-11-2-177.3, AS AMENDED BY P.L.14-2000,  
 30 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2002]: Sec. 177.3. "Public water system", for purposes of this  
 32 chapter, ~~and IC 13-18-11~~, IC 13-18-21, ~~and other environmental~~  
 33 ~~management laws~~, has the meaning set forth in 42 U.S.C. 300f.

34 SECTION 16. IC 13-11-2-197.6 IS ADDED TO THE INDIANA  
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2003]: Sec. 197.6. "Security", for purposes  
 37 of IC 13-17.5, means:

- 38 (1) a bond, note, or evidence of indebtedness issued by an  
 39 authorized borrower;  
 40 (2) a lease or certificate or other evidence of participation in  
 41 the lessor's interest in and rights under a lease with an  
 42 authorized borrower; or



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1           **(3) an obligation of an authorized borrower under an**  
 2           **agreement between the authorized borrower and the**  
 3           **authority.**

4           SECTION 17. IC 13-11-2-201 IS AMENDED TO READ AS  
 5           FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 201. "Sewage disposal  
 6           system", for purposes of **this chapter and IC 13-18-12**, means septic  
 7           tanks, wastewater holding tanks, seepage pits, cesspools, privies,  
 8           composting toilets, interceptors or grease traps, portable sanitary units,  
 9           and other equipment, facilities, or devices used to:

- 10           (1) store;  
 11           (2) treat;  
 12           (3) make inoffensive; or  
 13           (4) dispose of;

14           human excrement or liquid carrying wastes of a domestic nature.

15           SECTION 18. IC 13-11-2-227, AS AMENDED BY P.L.132-1999,  
 16           SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17           JULY 1, 2002]: Sec. 227. "Supplemental program", for purposes of  
 18           IC 13-18-13 and IC 13-18-21, refers to:

- 19           **(1) the supplemental drinking water and wastewater assistance**  
 20           **program established by IC 13-18-21-21; and**  
 21           **(2) use of the supplemental drinking water and wastewater**  
 22           **assistance fund established by IC 13-18-21-22 to place**  
 23           **certificates of deposit for the nonpoint source pollution**  
 24           **reduction project loan program under IC 13-18-22.**

25           SECTION 19. IC 13-11-2-259 IS AMENDED TO READ AS  
 26           FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 259. "Water  
 27           distribution system", for purposes of IC 13-18-11 and environmental  
 28           management laws, means that part of the **public** water ~~supply~~ system  
 29           in which water is conveyed from the water treatment plant to the  
 30           premises of the consumer.

31           SECTION 20. IC 13-11-2-264 IS AMENDED TO READ AS  
 32           FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 264. "Water treatment  
 33           plant", for purposes of IC 13-18-11 and environmental management  
 34           laws, means that part of the **public** water ~~supply~~ system that provides  
 35           the water or in some way alters the physical, chemical, or  
 36           bacteriological quality of the water.

37           SECTION 21. IC 13-15-4-1, AS AMENDED BY P.L.138-2000,  
 38           SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39           UPON PASSAGE]: Sec. 1. Except as provided in sections 2, 3, and 6  
 40           of this chapter, the commissioner shall approve or deny an application  
 41           filed with the department after July 1, 1995, within the following  
 42           number of days:

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(1) Three hundred sixty-five (365) days for an application concerning the following:

- (A) A new hazardous waste or solid waste landfill.
- (B) A new hazardous waste or solid waste incinerator.
- (C) A major modification of a solid waste landfill.
- (D) A major modification of a solid waste incinerator.
- (E) A new hazardous waste treatment or storage facility.
- (F) A new Part B permit issued under 40 CFR 270 et seq. for an existing hazardous waste treatment or storage facility.
- (G) A Class 3 modification under 40 CFR 270.42 to a hazardous waste landfill.

(2) Two hundred seventy (270) days for an application concerning the following:

- (A) A Class 3 modification under 40 CFR 270.42 of a hazardous waste treatment or storage facility.
- (B) A major ~~new~~ National Pollutant Discharge Elimination System permit.

(3) One hundred eighty (180) days for an application concerning the following:

- (A) A new solid waste processing or recycling facility.
- (B) A minor ~~new~~ National Pollutant Discharge Elimination System individual permit.
- (C) A permit concerning the land application of wastewater.

(4) One hundred fifty (150) days for an application concerning a minor new National Pollutant Discharge Elimination System general permit.

(5) One hundred twenty (120) days for an application concerning a Class 2 modification under 40 CFR 270.42 to a hazardous waste facility.

(6) Ninety (90) days for an application concerning the following:

- (A) A minor modification to a solid waste landfill or incinerator permit.
- (B) A wastewater facility or water facility construction permit.

(7) The amount of time provided for in rules adopted by the air pollution control board for an application concerning the following:

- (A) An air pollution construction permit that is subject to 326 IAC 2-2 and 326 IAC 2-3.
- (B) An air pollution facility construction permit (other than as defined in 326 IAC 2-2).
- (C) Registration of an air pollution facility.

(8) Sixty (60) days for an application concerning the following:



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(A) A Class 1 modification under 40 CFR 270.42 requiring prior written approval, to a hazardous waste:

- (i) landfill;
- (ii) incinerator;
- (iii) treatment facility; or
- (iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds one hundred dollars (\$100) and for which a time frame has not been established under section 3 of this chapter.

SECTION 22. IC 13-15-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

(1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

- (A) do not contain adequate information for the department to process the application; or
- (B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2) notices of deficiency are issued on an application, the period may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the notice of deficiency. A notice of deficiency may include a request for the applicant to conduct tests or sampling to provide information necessary for the department to process the application. If an applicant's response does not contain complete information to satisfy all deficiencies described in a notice of deficiency, the department shall notify the applicant not later than thirty (30) working days after receiving the response. The commissioner shall resume processing the application, and the period described under sections 1 through 6 of this chapter resumes on the earlier of the date the department receives and stamps as received the applicant's complete information or the date marked by the department on a certified mail return receipt accompanying the applicant's complete information.

(2) The commissioner receives a written request from an applicant to:

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- 1 (A) withdraw; or  
 2 (B) defer processing of;  
 3 the application for the purposes of resolving an issue related to a  
 4 permit or to provide additional information concerning the  
 5 application.  
 6 (3) The department is required by federal law or by an agreement  
 7 with the United States Environmental Protection Agency for a  
 8 federal permit program to transmit a copy of the proposed permit  
 9 to the administrator of the United States Environmental Protection  
 10 Agency for review and possible objections before the permit may  
 11 be issued. The period described under sections 1 through 6 of this  
 12 chapter shall be suspended from the time the department submits  
 13 the proposed permit to the administrator for review until:  
 14 (A) the department receives the administrator's concurrence or  
 15 objection to the issuance of the proposed permit; or  
 16 (B) the period established in federal law by which the  
 17 administrator is required to make objections expires without  
 18 the administrator having filed an objection.  
 19 (4) A board initiates emergency rulemaking under  
 20 ~~IC 4-22-2-37.1(a)(14)~~ **IC 4-22-2-37.1(a)(13)** to revise the period  
 21 described under sections 1 through 6 of this chapter.  
 22 SECTION 23. IC 13-15-4-11 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. If the  
 24 commissioner does not issue or deny a permit within the time specified  
 25 under sections 1 through 6 of this chapter, the applicant may proceed  
 26 under this section. ~~Except as provided in section 12 of this chapter,~~  
 27 After reaching an agreement with the commissioner or after consulting  
 28 with the commissioner for thirty (30) days and failing to reach an  
 29 agreement, the applicant may choose to proceed under one (1) of the  
 30 following alternatives:  
 31 (1) The:  
 32 (A) applicant may request and receive a refund of a permit  
 33 application fee paid by the applicant; and  
 34 (B) commissioner shall do the following:  
 35 (i) Continue to review the application.  
 36 (ii) Approve or deny the application as soon as practicable.  
 37 (iii) Refund the applicant's application fee not later than  
 38 twenty-five (25) working days after the receipt of the  
 39 applicant's request.  
 40 (2) The:  
 41 (A) applicant may:  
 42 (i) request and receive a refund of a permit application fee

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1 paid by the applicant; and

2 (ii) submit to the department a draft permit and any required  
3 supporting technical justification for the permit; and

4 (B) commissioner shall do the following:

5 (i) Review the draft permit.

6 (ii) Approve, with or without revision, or deny the draft  
7 permit in accordance with section 16 of this chapter.

8 (iii) Refund the applicant's application fee not later than  
9 twenty-five (25) working days after the receipt of the  
10 applicant's request.

11 (3) The:

12 (A) applicant may require that the department use the permit  
13 application fee, **the permit annual fee under IC 13-18-20**,  
14 and any additional money needed to hire an outside consultant  
15 to prepare a draft permit and any required supporting technical  
16 justification for the permit; and

17 (B) commissioner shall:

18 (i) review the draft permit; and

19 (ii) approve, with or without revision, or deny the draft  
20 permit in accordance with section 16 of this chapter.

21 If additional money is needed to hire an outside consultant under  
22 this subdivision, the applicant shall pay the additional money  
23 needed to hire the outside consultant.

24 SECTION 24. IC 13-15-4-12 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 12. **(a) For**  
26 **purposes of this section, if:**

27 **(1) the deadline for approval or denial of a permit application**  
28 **under section 1 of this chapter precedes July 1, 2003; and**

29 **(2) the commissioner does not approve or deny the permit**  
30 **application before the deadline;**

31 **the deadline for approval or denial is considered to be July 1, 2003.**

32 **(b) An applicant may not receive a refund of a permit application**  
33 **annual fee under IC 13-18-20 if:**

34 **(1) the permit application concerned the renewal of a permit;**

35 **(2) the expiration date of the permit for which renewal is**  
36 **sought is extended under IC 13-15-3-6; and**

37 **(3) the applicant applies in writing to the department for a**  
38 **refund.**

39 **(c) The amount of a refund under this section for a calendar**  
40 **year in which a fee is assessed under IC 13-18-20-13 is the amount**  
41 **determined in STEP FIVE of the following formula:**

42 **STEP ONE: Determine the later of:**



- (A) January 1 of that calendar year; and  
 (B) the deadline for approval or denial of the permit application under section 1 of this chapter if the deadline falls in that calendar year.

**STEP TWO: Determine the earlier of:**

- (A) the date of approval or denial of the permit application under section 1 of this chapter if that date falls in that calendar year; and  
 (B) December 31 of that calendar year.

**STEP THREE: Determine the number of days after the date determined under STEP ONE and before the date determined under STEP TWO.**

**STEP FOUR: Multiply the amount determined under STEP THREE by the amount of the fee assessed in that calendar year under IC 13-18-20-13.**

**STEP FIVE: Multiply the product determined under STEP FOUR by seven one hundredths percent (.07%).**

SECTION 25. IC 13-15-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) This chapter applies to an application for a permit issued under IC 13-15-1 upon property:

- (1) that is undeveloped; or  
 (2) for which a valid existing permit has not been issued.

(b) This chapter does not apply to an application for a permit issued under IC 13-15-1 if the permit is for the construction, installation, or modification of any of the following:

- (1) A combined sewer.  
 (2) A sanitary sewer.  
 (3) A storm sewer.  
 (4) A public water ~~supply~~ system.  
 (5) A water main extension.

SECTION 26. IC 13-15-11-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. Before September 1 of each even-numbered year, the department shall report to the environmental quality service council:**

- (1) the department's proposed distribution of funds among the programs referred to in section 1 of this chapter for the current state fiscal year;  
 (2) the department's rationale for the proposed distribution;  
 (3) any difference between:  
 (A) the proposed distribution; and



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(B) the distribution made by the department in the immediately preceding state fiscal year; and

(4) the results of an independent audit of the correlation between:

(A) the distribution made by the department with respect to; and

(B) the department's actual expenses related to; each program referred to in section 1 of this chapter in the immediately preceding state fiscal year.

SECTION 27. IC 13-17.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

# **ARTICLE 17.5. ENVIRONMENTAL ASSISTANCE AUTHORITY**

## **Chapter 1. Establishment and Organization**

Sec. 1. There is established the environmental assistance authority, a separate body corporate and politic, constituting an instrumentality of the state for the public purposes set out in this article, but not a state agency. The authority is separate from the state in its corporate and sovereign capacity. The purpose of the authority is to carry out the purposes of this article, IC 13-18-13, IC 13-18-21, and IC 13-18-22 by administering:

- (1) the wastewater revolving loan fund and program;
- (2) the drinking water revolving loan fund and program;
- (3) the supplemental drinking water and wastewater assistance fund and program; and
- (4) the nonpoint source pollution reduction project loan program.

Sec. 2. (a) There is established a board of directors to govern the authority. The powers of the authority are vested in the board.

(b) The board is composed of:

- (1) the governor or the governor's designee, who shall serve as chairperson;
- (2) the treasurer of state or the treasurer's designee;
- (3) the budget director or the budget director's designee;
- (4) the commissioner of the department of environmental management or the commissioner's designee; and
- (5) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

- (1) must be a resident of Indiana;
- (2) serves for a term of three (3) years and until the director's successor is appointed and qualified;



(3) is eligible for reappointment;

(4) is not entitled to receive the minimum salary per diem provided in IC 4-10-11-2.1(b) while performing the director's duties but is entitled to the same reimbursement for traveling expenses and other expenses actually incurred in connection with the director's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency; and

(5) may be removed from the board by the governor and serves at the governor's pleasure.

(d) Not more than three (3) of the directors appointed by the governor may be members of the same political party.

(e) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

**Sec. 3. The board shall:**

(1) elect one (1) of its members vice chairperson;

(2) appoint and fix the duties and compensation of an executive director, who shall serve as both secretary and treasurer;

(3) appoint and fix the duties and compensation of a program representative to take official action on behalf of the authority as authorized by trust indentures and other agreements entered into by the authority; and

(4) establish and maintain the office of the authority in Indianapolis.

The board may designate the executive director to serve as program representative or may select another individual to serve in that position.

**Sec. 4. Five (5) directors constitute a quorum at any meeting of the board.**

**Sec. 5. Action may be taken by the board at a meeting by the affirmative vote of at least five (5) directors. A vacancy on the board does not impair the right of a quorum of directors to exercise the powers and perform the duties of the board.**

**Sec. 6. (a) This section applies to a meeting of the board at which at least five (5) directors are physically present at the place where the meeting is conducted.**

**(b) A director may participate in a meeting of the board by using a means of communication that permits:**

**(1) all other directors participating in the meeting; and**



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(2) all members of the public physically present at the place where the meeting is conducted; to simultaneously communicate with each other during the meeting.

(c) A director who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each director who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); and

(3) was absent.

Sec. 7. (a) Each director and the executive director must execute a surety bond in an amount specified by the treasurer of state. Each surety bond shall be conditioned upon the faithful performance of the duties of the office of director and executive director, respectively. Instead of these surety bonds, the authority may execute a blanket surety bond covering each director, the executive director, and any officers or employees of the authority.

(b) The surety bonds required by this section must be issued by a surety company authorized to transact business in Indiana.

(c) The cost of the surety bonds required by this section shall be paid by the authority.

Sec. 8. (a) Notwithstanding any other law to the contrary, a director does not violate any law, civil or criminal, if the director:

(1) has or, to the director's knowledge, may have or may later acquire a direct or indirect pecuniary interest in a contract with the authority; or

(2) is an officer, a member, a manager, a director, or an employee of or has an ownership interest in any firm, limited liability company, or corporation that is or may be a party to the contract;

if the director discloses in writing to the authority or for recording in the minutes of a meeting of the board the nature and extent of the interest as soon as the director has knowledge of the interest and abstains from discussion, deliberation, action, and voting with respect to the contract.

(b) Notwithstanding any provision of this article or any other law, a contract or transaction shall not be void or voidable because of the existence of an interest described in subsection (a) if the provisions of subsection (a) have been satisfied.



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1       **Sec. 9.** The executive director appointed under section 3 of this  
 2 chapter shall, in addition to other duties fixed by the directors,  
 3 administer, manage, and direct the employees of the authority. The  
 4 executive director shall approve all amounts for salaries, allowable  
 5 expenses of the authority or of any employee or consultant of the  
 6 authority, and expenses incidental to the operation of the authority.  
 7 The executive director shall attend the meetings of the board, keep  
 8 a record of the proceedings of the board, and maintain all books,  
 9 documents, and papers filed with the authority, the minutes of the  
 10 board, and the authority's official seal. The executive director may  
 11 cause copies to be made of all minutes and other records and  
 12 documents of the authority and may give certificates under seal of  
 13 the authority to the effect that those copies are true copies, and all  
 14 persons dealing with the authority may rely upon those certificates.

15       **Sec. 10. (a)** The authority shall:

- 16           (1) adopt a policy establishing a code of ethics for its
- 17           employees; or
- 18           (2) decide to be under the jurisdiction and rules adopted by
- 19           the state ethics commission.

20       **(b)** A code of ethics adopted under this section must be  
 21 consistent with state law.

## 22       **Chapter 2. Powers and Duties**

23       **Sec. 1.** The authority is granted all powers necessary,  
 24 convenient, or appropriate to carry out and effectuate its public  
 25 and corporate purposes, including, but not limited to, the  
 26 following:

- 27           (1) Have a perpetual existence as a body politic and corporate
- 28           and an independent instrumentality, but not a state agency,
- 29           exercising essential public functions.
- 30           (2) Sue and be sued.
- 31           (3) Adopt and alter an official seal.
- 32           (4) Make and enforce bylaws and guidelines for the conduct
- 33           of its business and for the use of its services and facilities,
- 34           which may be adopted by the authority without complying
- 35           with IC 4-22-2.
- 36           (5) Acquire, hold, use, and dispose of its income, revenues,
- 37           funds, and money.
- 38           (6) Acquire, rent, lease, hold, use, and dispose of property for
- 39           its purposes.
- 40           (7) Fix and periodically revise and charge and collect fees and
- 41           charges for the use of its services or facilities.
- 42           (8) Accept gifts or grants of property, funds, money,



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materials, labor, supplies, or services from the United States, any governmental unit, or any person, carry out the terms or provisions or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants, including entering into grant and operating agreements with the United States Environmental Protection Agency.

(9) Do anything authorized by this article, through its officers, agents, or employees or by contracts with a person.

(10) Procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable.

(11) Cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency, including an authorized borrower.

(12) Make contracts and incur liabilities.

**Sec. 2. The authority may:**

(1) make, enter into, and enforce all contracts and other agreements necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a loan or guaranty to or a lease or an agreement with an authorized borrower;

(B) a purchase, an acquisition, or a sale of securities or other investments; or

(C) the performance of its duties and execution of any of its powers under this article;

(2) purchase, acquire, or hold securities or other investments for the authority's own account or for an authorized borrower at prices and in a manner the authority considers advisable and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable;

(3) prescribe the form of application or procedure required of an authorized borrower for a loan or guaranty, fix the terms and conditions of the loan, and enter into agreements with authorized borrowers with respect to loans;

(4) charge for its costs and services in review or consideration of a proposed loan or guaranty to an authorized borrower or purchase by the authority of securities, whether the loan or guaranty is made or the securities purchased;

(5) fix and establish terms and provisions with respect to:



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(A) a purchase of securities by the authority, including date and maturities of the securities;  
 (B) redemption or payment before maturity; and  
 (C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority;

(6) acquire, hold, and lease or sell property to an authorized borrower. The lease or sale under this subdivision may be made under a financing lease, lease with option to purchase, conditional sales contract, or any other form of agreement, upon the terms and conditions that the authority considers advisable in order to promote the purpose of this article; and  
 (7) appoint and employ general or special counsel, accountants, financial advisers or experts, and all other such or different officers, agents, and employees as it requires and determine their qualifications, duties, and compensation, all in order to effectuate the purposes of this article.

The authority shall not be considered to have engaged in any acts prohibited by this chapter in performing any duty or exercising any power described in this section, IC 13-18-13, IC 13-18-21, or IC 13-18-22.

**Sec. 3.** Money not being used to purchase securities may be invested and reinvested by the authority pending the disbursements of that money:

- (1) as provided in a resolution of the authority or in a trust agreement or indenture entered into by the Indiana bond bank under IC 5-1.5; or
- (2) in an account established under IC 13-18-13-2(e) or IC 13-18-21-2(e).

**Sec. 4. (a)** The authority shall have an audit of its books and accounts made at least once in each year by a certified public accounting firm or the state board of accounts, as determined by the authority. The cost of the audit shall be considered an expense of the authority, and a copy of the audit shall be made available to the public.

**(b)** The authority shall submit a report of its activities for each fiscal year to the budget committee and the legislative services agency before November 1 of the calendar year in which the authority's fiscal year ends. Each report shall set forth a complete operating and financial statement covering its operations during that fiscal year.

**Sec. 5.** The board shall adopt, on either a calendar or fiscal year



1 basis, an annual budget, which may be amended periodically  
2 during the year.

3 **Sec. 6. All expenses incurred in carrying out this article are**  
4 **payable solely from revenues available under section 3 of this**  
5 **chapter or funds appropriated under this article, and nothing in**  
6 **this article authorizes the authority to incur an indebtedness or**  
7 **liability on behalf of or payable by the state.**

8 **Sec. 7. All meetings of the authority shall be open to the public**  
9 **in accordance with and subject to the limitations of IC 5-14-1.5. All**  
10 **records of the authority shall be subject to the requirements of**  
11 **IC 5-14-3.**

12 SECTION 28. IC 13-18-11-12 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) When a vacancy  
14 in a position of operator occurs due to death, resignation, extended  
15 illness, or a similar cause, the vacancy may be filled for a period not  
16 exceeding one (1) year by an operator with a provisional certification.

17 (b) On written request of the governing body or owner of a  
18 wastewater or **public water supply** system, the commissioner may issue  
19 a provisional certification under subsection (a) to a person with the  
20 required education and experience qualifications, until the person has  
21 had an opportunity to qualify by examination and be certified under  
22 this chapter.

23 SECTION 29. IC 13-18-13-2 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The wastewater  
25 revolving loan fund is established to provide money for loans and other  
26 financial assistance to or for the benefit of ~~political subdivisions~~  
27 **participants** under this chapter. **The authority shall administer,**  
28 **hold, and manage the fund.**

29 (b) The general assembly may appropriate money to the fund.  
30 Grants or gifts of money to the fund from the federal government or  
31 other sources and the proceeds of the sale of:

32 (1) gifts to the fund; and

33 (2) loans and other financial assistance, as provided in sections ~~10~~  
34 **10.5** through 14 of this chapter;

35 shall be deposited in the fund.

36 (c) Repayments of loans and other financial assistance, including  
37 interest, premiums, and penalties, shall be deposited in the fund.

38 (d) The ~~treasurer of state~~ **authority** shall invest the money in the  
39 fund that is:

40 (1) not currently needed to meet the obligations of the fund; and

41 (2) not invested under subsection (e);

42 in the same manner as other public money may be invested. Earnings

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that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a ~~political subdivision~~ **participant**;
- (4) the Indiana bond bank; ~~or~~
- (5) **the authority**; or
- (6) any person to which **the authority**, the department, the budget agency, or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Clean Water Act, the cost of administering the fund may be paid from the fund.

~~(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.~~

~~(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.~~

SECTION 30. IC 13-18-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) Money in the fund may be used to do the following:

- (1) Provide loans or other financial assistance to political subdivisions for:

- (A) the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks; **or**

- (B) **a nonpoint source pollution reduction project.**

- (2) Pay the cost of administering the fund and the program.
- (3) **Placement of certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.**
- (4) Conduct all other activities that are permitted by the federal Clean Water Act.

(b) **For each state fiscal year, the budget agency may use not more than three percent (3%) of the total amount estimated by the budget agency to be available for financial assistance from the fund**



for the year for the combined purposes of:

- (1) providing loans or other financial assistance to political subdivisions for nonpoint source pollution reduction projects; and
- (2) placing certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(c) Amounts estimated to be available for purposes of subsection (b) for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.

SECTION 31. IC 13-18-13-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) Money in the fund may be used to do the following:**

(1) Provide loans or other financial assistance to participants for:

- (A) the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks; or
- (B) a nonpoint source pollution reduction project.

(2) Pay the cost of administering the fund and the program.

(3) Place certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(4) Conduct all other activities that are permitted by the federal Clean Water Act.

(b) For each state fiscal year, the authority may use not more than three percent (3%) of the total amount estimated by the authority to be available for financial assistance from the fund for the year for the combined purposes of:

- (1) providing loans or other financial assistance to political subdivisions for nonpoint source pollution reduction projects; and
- (2) placing certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(c) Amounts estimated to be available for purposes of subsection (b) for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.

(d) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

SECTION 32. IC 13-18-13-5 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The ~~department~~  
**authority** shall do the following:

(1) **Administer, hold, and** manage all aspects of **the fund**, the program, **the supplemental fund**, and **the** supplemental program ~~except as provided under section 6 of in accordance with~~ this chapter.

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided under section 6 of this chapter.~~

(3) Cooperate with **the department and** the budget agency in the administration and management of the program and supplemental program **and**

~~(4) Cooperate with the budget agency~~ in preparing and providing program information.

~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program or supplemental program.

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The federal Clean Water Act.

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency~~; the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency; Accept and hold any letter of credit from the federal government~~ **(7) Manage any payment systems** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9)~~ **(8)** Prepare ~~jointly with the budget agency~~; annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

~~(10)~~ **(9)** Submit the reports prepared under subdivision ~~(9)~~ **(8)** to the governor, ~~and the general assembly.~~

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund.~~



- 1           ~~(B) The program.~~
- 2           ~~(C) The supplemental fund.~~
- 3           ~~(D) The supplemental program.~~
- 4           **the budget committee, and the legislative services agency.**
- 5           **(10) Be the point of contact with participants and other**
- 6           **interested persons in preparing and providing program**
- 7           **information.**
- 8           **(11) Prepare or cause to be prepared each financial assistance**
- 9           **agreement.**
- 10          **(12) Sign each financial assistance agreement.**
- 11          **(13) Conduct or cause to be conducted an evaluation as to the**
- 12          **financial ability of each participant to pay the loan or other**
- 13          **financial assistance and other obligations evidencing the loans**
- 14          **or other financial assistance, if required to be paid, and**
- 15          **comply with the financial assistance agreement in accordance**
- 16          **with the terms of the agreement.**
- 17          SECTION 33. IC 13-18-13-7 IS AMENDED TO READ AS
- 18          FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The ~~budget agency~~
- 19          **authority** may do the following:
- 20           (1) Employ:
- 21           (A) fiscal consultants;
- 22           (B) engineers;
- 23           (C) ~~bond~~ **general** counsel;
- 24           (D) other special counsel;
- 25           (E) accountants; and
- 26           (F) any other consultants, employees, and agents;
- 27          that the ~~budget agency~~ **authority** considers necessary to carry out
- 28          the purposes of this chapter.
- 29           (2) Fix and pay the compensation of those persons employed ~~in~~
- 30          **under** subdivision (1) from money:
- 31           (A) available in the fund or supplemental fund; or
- 32           (B) otherwise made available for the program or the
- 33           supplemental program.
- 34           **(3) Enter into memoranda of understanding with the**
- 35           **department and the budget agency concerning the**
- 36           **administration and management of the following:**
- 37           (A) The fund.
- 38           (B) The program.
- 39           (C) The supplemental fund.
- 40           (D) The supplemental program.
- 41           **(4) Provide services to a participant in connection with a loan**
- 42           **or other financial assistance, including advisory and other**

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1 **services.**

2 SECTION 34. IC 13-18-13-8 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The ~~department~~  
4 **and the budget agency authority** may:

5 (1) ~~provide services to a political subdivision in connection with~~  
6 ~~a loan or other financial assistance, including advisory and other~~  
7 ~~services; and~~

8 (2) ~~(1) charge a fee for services provided; and~~

9 ~~(b) The department and the budget agency may~~

10 (2) charge a fee for costs and services incurred in the review or  
11 consideration of an application for a proposed loan or other  
12 financial assistance to or for the benefit of a ~~political subdivision~~  
13 **participant** under this chapter, regardless of whether the  
14 application is approved or rejected.

15 ~~(c) (b) A political subdivision participant~~ may pay fees charged  
16 under this section.

17 SECTION 35. IC 13-18-13-9 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) The department~~  
19 **authority** shall use a priority ranking system ~~to recommend in making~~  
20 loans or other financial assistance from the fund. The ~~department~~  
21 **authority, in consultation with the department,** shall develop the  
22 priority ranking system to achieve optimum water quality consistent  
23 with the water quality goals of the state and the federal Clean Water  
24 Act.

25 ~~(b) Based on the recommendations made under subsection (a), the~~  
26 ~~budget agency may make loans and provide other financial assistance~~  
27 ~~from the fund to or for the benefit of political subdivisions.~~

28 SECTION 36. IC 13-18-13-10 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The budget agency  
30 may make loans or provide other financial assistance from the fund to  
31 or for the benefit of a political subdivision under the following  
32 conditions:

33 (1) The loan or other financial assistance must be used:

34 (A) for planning, designing, constructing, renovating,  
35 improving, or expanding wastewater collection and treatment  
36 systems and other activities necessary or convenient to  
37 complete these tasks;

38 (B) to:

39 (i) establish reserves or sinking funds; or

40 (ii) provide interest subsidies;

41 (C) to pay financing charges, including interest on the loan or  
42 other financial assistance during construction and for a

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reasonable period after the completion of construction; ~~or~~

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program; **or**

**(E) for nonpoint source pollution reduction projects.**

(2) Subject to section 15 of this chapter, upon recommendation of the budget agency the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.

(3) The budget agency shall establish the terms and conditions that the budget agency considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

SECTION 37. IC 13-18-13-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10.5. The authority may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:**

**(1) The loan or other financial assistance must be used:**

**(A) for planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems, for any purpose eligible for assistance under the federal Clean Water Act, and for other activities necessary or convenient to complete these tasks;**

**(B) to:**

**(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or**

**(ii) provide interest subsidies;**

**(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction;**

**(D) to pay:**

**(i) consultant, advisory, and legal fees; and**

**(ii) any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration**



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of the fund and the program; or

(E) for nonpoint source pollution reduction projects.

(2) The authority shall establish the terms and conditions that the authority considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

(3) Notwithstanding any other law, the authority may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from or in addition to requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 38. IC 13-18-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency~~ authority.

(2) Unless otherwise provided by ~~rule~~, the guidelines of the authority, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 39. IC 13-18-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. A ~~political subdivision~~ participant receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A



1 financial assistance agreement is a valid, binding, and enforceable  
2 agreement of the ~~political subdivision~~ **participant**.

3 SECTION 40. IC 13-18-13-13 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The ~~budget agency~~  
5 **authority** may sell loans or evidences of other financial assistance and  
6 other obligations of ~~political subdivisions~~ **participants** evidencing the  
7 loans or other financial assistance from the fund periodically at any  
8 price and on terms acceptable to the ~~budget agency~~ **authority**.  
9 Proceeds of sales under this section shall be deposited in the fund.

10 SECTION 41. IC 13-18-13-14 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The ~~budget~~  
12 **agency authority** may pledge loans or evidences of other financial  
13 assistance and other obligations of ~~political subdivisions~~ **participants**  
14 evidencing the loans or other financial assistance from the fund to  
15 secure:

16 (1) other loans or financial assistance from the fund to or for the  
17 benefit of ~~political subdivisions~~ **participants**; or

18 (2) other loans or financial assistance from the supplemental fund  
19 to or for the benefit of ~~political subdivisions~~ **participants**;  
20 to the extent permitted by the federal Clean Water Act.

21 (b) The ~~budget agency~~ **authority** must approve the terms of a  
22 pledge under this section.

23 (c) Notwithstanding any other law, a pledge of property made by the  
24 department and the budget agency under this section or IC 4-23-21-8(e)  
25 (before its repeal) **or a pledge of property made by the authority**  
26 **under this section** is binding from the time the pledge is made. **Any**  
27 **pledge of property made by the department and the budget agency**  
28 **under this section or IC 4-23-21-8(e) (before its repeal) is binding**  
29 **on the authority**. Revenues, other money, or other property pledged  
30 and thereafter received are immediately subject to the lien of the pledge  
31 without any further act. The lien of a pledge is binding against all  
32 parties having claims of any kind in tort, contract, or otherwise against:

33 (1) the department;

34 (2) the budget agency; ~~or~~

35 (3) the fund; **or**

36 **(4) the authority;**

37 regardless of whether the parties have notice of any lien.

38 (d) A resolution, an indenture, or other instrument by which a  
39 pledge is created does not have to be filed or recorded, except in the  
40 records of the ~~budget agency~~ **authority**.

41 (e) Action taken to:

42 (1) enforce a pledge under this section or IC 4-23-21-8(e) (before

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1 its repeal); and  
 2 (2) realize the benefits of the pledge;  
 3 is limited to the property pledged.  
 4 (f) A pledge under this section or IC 4-23-21-8(e) (before its repeal)  
 5 does not create a liability or indebtedness of the state.

6 SECTION 42. IC 13-18-13-15 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) ~~In~~  
 8 recommending to the state board of finance the interest rate or  
 9 parameters for establishing the interest rate on each loan, as provided  
 10 in section 10 of this chapter, the budget agency shall recommend and  
 11 the state board of finance shall establish the following:

- 12 (1) A base or subsidized interest rate that:  
 13 (A) would be payable by political subdivisions other than  
 14 political subdivisions described in subdivision (2) or (3); and  
 15 (B) may provide for the payment of no interest during all or a  
 16 part of the estimated construction period for the wastewater  
 17 treatment system.  
 18 (2) A base reduced or more heavily subsidized interest rate, that:  
 19 (A) would be payable by political subdivisions whose median  
 20 household incomes are:  
 21 (i) not more than the state nonmetropolitan median  
 22 household income, as determined and reported by the  
 23 federal government periodically; and  
 24 (ii) not less than eighty-one percent (81%) of the state  
 25 nonmetropolitan median household income; and  
 26 (B) may provide for the payment of no interest during all or a  
 27 part of the estimated construction period for the wastewater  
 28 collection and treatment system.  
 29 (3) A base zero (0) or most heavily subsidized interest rate that:  
 30 (A) would be payable on loans made to political subdivisions  
 31 whose median household incomes are not more than eighty  
 32 percent (80%) of the state nonmetropolitan household income;  
 33 and  
 34 (B) may provide for the payment of no interest during all or a  
 35 part of the estimated construction period of the wastewater  
 36 collection and treatment system.

37 **The authority shall establish the interest rate or parameters for**  
 38 **establishing the interest rate on each loan, including parameters**  
 39 **for establishing the amount of interest subsidies.**

40 (b) The budget agency, authority, in recommending to the state  
 41 board of finance **setting** the interest rate or parameters for establishing  
 42 the interest rate on each loan, ~~under section 10 of this chapter,~~ shall



take into account the following:

- (1) Credit risk.
- (2) Environmental enforcement and protection.
- (3) Affordability.
- (4) Other fiscal factors the ~~budget agency~~ **authority** considers relevant, **including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.**

**Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.**

(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the ~~budget agency's~~ **authority's** request:

- (1) revenue bonds payable from and secured by political subdivisions; and
- (2) loan payments made by and loan payments made to political subdivisions.

~~It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.~~

SECTION 43. IC 13-18-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. The ~~budget agency~~ **authority** shall require that a ~~political subdivision~~ **participant** receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the ~~political subdivision~~ **participant** to:

- (1) operate and maintain the wastewater collection and treatment system; and
- (2) pay the obligations of the system.

SECTION 44. IC 13-18-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

- (1) that is the custodian of money payable to a ~~political subdivision~~ **participant**, other than money in payment for goods or services provided by the ~~political subdivision~~ **participant**; and



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(2) after written notice from the budget director that the ~~political subdivision~~ **participant** is in default on the payment of principal or interest on a loan or evidence of other financial assistance; may withhold payment of money from that ~~political subdivision~~ **participant** and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank ~~as directed by the budget director~~; for the purpose of curing the default.

(b) The withholding of payment from the ~~political subdivision~~ **participant** and payment to:

(1) the ~~budget agency~~; **authority**; or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 45. IC 13-18-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may jointly adopt ~~rules under guidelines, without complying with IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement govern the administration of~~ this chapter.

SECTION 46. IC 13-18-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money from the budget agency by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the budget agency, and the budget agency may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:



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(1) in the amounts; and  
 (2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the budget agency.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue its notes and sell the notes ~~to the department and the budget agency~~, **for the benefit of the program**, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

- (1) valid and binding obligations of the political subdivision;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

- (1) the provisions of this section; nor
- (2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 47. IC 13-18-13-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 19.5. (a) Notwithstanding any other law, a political subdivision may borrow money from the authority by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.**

**(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or an ordinance and the proceeds must be used to carry out the purposes specified in this chapter.**

**(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the authority, and the authority may purchase and sell the renewed or extended notes.**



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1 Accrued interest on the date of renewal or extension may be paid  
 2 or added to the principal amount of the note being renewed or  
 3 extended.

4 (d) The notes issued by a political subdivision under subsection  
 5 (b), including any renewals or extensions, must mature:

6 (1) in the amounts; and

7 (2) at the times not exceeding four (4) years from the date of  
 8 original issuance;

9 that are agreed to by the political subdivision and the authority.

10 (e) Compliance with subsection (b) constitutes full authority for  
 11 a political subdivision to issue its notes and sell the notes for the  
 12 benefit of the program, and the political subdivision is not required  
 13 to comply with any other law applicable to the authorization,  
 14 approval, issuance, and sale of its notes. These notes are:

15 (1) valid and binding obligations of the political subdivision;

16 (2) enforceable in accordance with the terms of the notes; and

17 (3) payable solely from the sources specified in the resolution  
 18 or ordinance authorizing the issuance of the notes.

19 (f) If the political subdivision issues bonds, all or part of the  
 20 proceeds of which will be used to pay the notes issued under  
 21 subsection (b), neither:

22 (1) the provisions of this section; nor

23 (2) the actual issuance by a political subdivision of notes  
 24 under subsection (b);

25 relieves the political subdivision of the obligation to comply with  
 26 the statutory requirements for the issuance of bonds.

27 SECTION 48. IC 13-18-13-20 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) As an  
 29 alternative to making loans or providing other financial assistance to  
 30 ~~political subdivisions, participants, the budget agency authority~~ may  
 31 use the money in the fund or the supplemental fund to provide a  
 32 leveraged loan program and other financial assistance programs  
 33 permitted by the federal Clean Water Act to or for the benefit of  
 34 ~~political subdivisions, participants,~~ including using money in the fund  
 35 or the supplemental fund to enhance the obligations of ~~political~~  
 36 ~~subdivisions participants~~ issued for the purposes of this chapter by:

37 (1) granting money to:

38 (A) be deposited in:

39 (i) a capital or reserve fund established under IC 5-1.5,  
 40 **IC 13-17.5**, or another statute or a trust agreement or  
 41 indenture as contemplated by ~~IC 13-18-13-2(e); section 2(e)~~  
 42 **of this chapter;** or



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- 1 (ii) an account established within such a fund; or  
 2 (B) provide interest subsidies;  
 3 (2) paying bond insurance premiums, reserve insurance  
 4 premiums, or credit enhancement, liquidity support, remarketing,  
 5 or conversion fees, or other similar fees or costs for obligations of  
 6 a ~~political subdivision~~ **participant** or for bonds issued by **the**  
 7 **authority or** the Indiana bond bank, if credit market access is  
 8 improved or interest rates are reduced; or  
 9 (3) guaranteeing all or a part of obligations issued by ~~political~~  
 10 ~~subdivisions~~ **participants** or of bonds issued by **the authority or**  
 11 the Indiana bond bank.  
 12 (b) The ~~budget agency~~ **authority** may enter into any agreements  
 13 with the Indiana bond bank or ~~political subdivisions~~ **participants** to  
 14 carry out the purposes specified in this chapter.  
 15 (c) A guarantee of obligations or bonds under subsection (a)(3) must  
 16 be limited to money in the fund and the supplemental fund. A  
 17 guarantee under subsection (a)(3) does not create a liability or  
 18 indebtedness of the state.  
 19 SECTION 49. IC 13-18-16-1 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) A permit is  
 21 required for the construction, installation, or modification of:  
 22 (1) sources;  
 23 (2) facilities;  
 24 (3) equipment; or  
 25 (4) devices;  
 26 of a public water ~~supply~~, **system**, including water distribution systems.  
 27 (b) Plans and specifications for the construction, installation, or  
 28 modification of sources, facilities, equipment, or devices of a public  
 29 water ~~supply~~ **system** must be submitted to the commissioner with a  
 30 permit application. The plans and specifications must be complete and  
 31 of sufficient detail to show all proposed construction, changes, or  
 32 modifications that may affect the sanitary quality, chemical quality, or  
 33 adequacy of the public water ~~supply~~ **system** involved. The applicant  
 34 shall supply any additional data or material considered appropriate by  
 35 the commissioner to a review of the plans and specifications.  
 36 (c) Unless otherwise provided in rules adopted under section 8(b)  
 37 of this chapter, plans and specifications must be submitted to the  
 38 commissioner with the permit application for water distribution  
 39 systems.  
 40 (d) Construction, installation, or modification of a public water  
 41 ~~supply~~ **system** may not begin until the commissioner has issued a  
 42 permit under subsection (a).



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(e) In determining whether to issue a permit under this section, the commissioner shall proceed under IC 13-15.

SECTION 50. IC 13-18-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. Plans and specifications submitted to the commissioner under section 1 of this chapter shall be approved if it is determined that the plans and specifications meet all of the following conditions:

(1) The plans and specifications are satisfactory with respect to the following:

(A) Sanitary quality, including chlorination, if required.

(B) Chemical quality.

(C) Adequacy of the water supply.

(2) The plans and specifications meet the requirements of any rules or standards adopted by the board under section 8 of this chapter governing the location, design, construction, and operation and maintenance of:

(A) public water ~~supply~~ **system** installations; and

(B) changes or additions to public water ~~supply~~ **system** installations.

SECTION 51. IC 13-18-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) All public water ~~supplies~~ **systems** shall be continuously operated and maintained so that water is:

(1) safe in quality;

(2) clean and adequate in quantity; and

(3) chemically satisfactory for ordinary domestic consumption.

(b) The person responsible for the operation of a public water ~~supply~~ **system** shall take all measures that are necessary to carry out the requirements of subsection (a) so as to protect the quality and quantity of the raw water supply from actual or threatened contamination. These measures include the relocation of the point of raw water collection to a site that is not contaminated or threatened by contamination.

(c) The failure to carry out a duty set forth in subsection (a) or (b) constitutes a violation subject to the penalties imposed under this chapter. Each day a violation occurs under this section constitutes a separate violation.

SECTION 52. IC 13-18-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. A person responsible for the operation of public water ~~supplies~~ **systems** shall submit:

(1) samples of water for analysis; and

(2) reports of operation pertaining to the sanitary quality,



1 chemical quality, or adequacy of **water supplied by those**  
 2 ~~supplies; systems;~~  
 3 that the commissioner requests. The operator certified under  
 4 IC 13-18-11 must verify under oath the reports of operation.

5 SECTION 53. IC 13-18-16-8 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The board shall  
 7 adopt rules under IC 4-22-2 and IC 13-14-9 establishing requirements  
 8 for the issuance of permits to control public water ~~supplies; systems,~~  
 9 including the following:

10 (1) Permits for the construction, installation, or modification of  
 11 facilities, equipment, or devices for any public water ~~supply.~~  
 12 **system.**

13 (2) Permits for the operation of sources, facilities, equipment, or  
 14 devices for any public water ~~supply.~~ **system.**

15 (b) The board shall adopt a permit by rule for water main extensions  
 16 (as defined in 327 IAC 8-3-1) to satisfy the permit requirement in  
 17 section 1(a) of this chapter.

18 SECTION 54. IC 13-18-16-10 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The department  
 20 shall conduct a program of continuing surveillance and inspection of  
 21 public water ~~supplies systems~~ and technical assistance in connection  
 22 with public water ~~supplies.~~ **systems.**

23 SECTION 55. IC 13-18-16-11 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. The department  
 25 shall encourage and advise units of local government in developing  
 26 programs and facilities for public water ~~supplies.~~ **systems.**

27 SECTION 56. IC 13-18-16-12 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. A person may not:

29 (1) install or contract for the construction of any public water  
 30 ~~supply system~~ facilities, including water purification or treatment  
 31 works; or

32 (2) make any material change in any public water ~~supply~~ **system**  
 33 facilities;

34 until a permit has been issued by the commissioner.

35 SECTION 57. IC 13-18-16-13 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) The  
 37 commissioner may investigate and determine whether any public water  
 38 ~~supply system~~ is **providing water that is** impure and dangerous to  
 39 **public health.** If the commissioner determines that ~~a public~~ **the** water  
 40 supply:

41 (1) is impure and dangerous to public health; or

42 (2) is not sufficiently purified because of improper construction,



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inadequate size, or inefficient management or operation;  
the commissioner may under IC 13-30-3-10 through IC 13-30-3-12  
order that the **public** water supply be made pure and safe to health.

(b) If the commissioner determines under subsection (a) that a  
**public** water supply is impure and dangerous to public health because  
of inefficient management or operation **of the public water system**  
**providing the water**, the commissioner may order the person  
responsible for the public water **supply system** to appoint, not later  
than fifteen (15) days after the commissioner's determination, a  
competent person to take charge of and superintend the operation of the  
water **supply system** plant or works.

(c) The commissioner must approve the person appointed in  
response to the commissioner's order under subsection (b). However,  
the person responsible for the water **supply system** plant or works shall  
pay the salary of the person appointed.

SECTION 58. IC 13-18-17-6 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The board shall  
adopt rules under IC 4-22-2 to establish protection zones around  
community water system wells.

(b) The state agencies referred to in section 5(b) of this chapter may  
not permit activities within the zones established under subsection (a)  
that would violate the rules or interfere with the purposes of the rules.

(c) The department shall establish and operate a program of  
education and assistance to local officials in developing and managing  
well field protection zones.

(d) The rules adopted under subsection (a) or any zoning under  
IC 36-7 to establish protection zones around community water system  
wells may not restrict any activity by:

- (1) an owner of land;
- (2) a mineral owner; or
- (3) a mineral leaseholder of record;

unless the owner or leaseholder is sent written notice of, and has an  
opportunity to be heard on, the establishment of the zone and the  
construction of the community **public** water **supply** system that caused  
the establishment of the zone.

(e) A person that requests a permit for construction of a community  
water system or establishment of a well field protection zone is  
responsible for any notice requirements the board establishes.

SECTION 59. IC 13-18-20-9 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. For public water  
**supply system** permits, the annual base fee per facility is:

- (1) one thousand dollars (\$1,000) for a major permit; and

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(2) four hundred dollars (\$400) for a minor permit;  
plus the following annual discharge flow fee per facility based on  
projected daily average flow in MGD as set forth in a facility NPDES  
permit:

Projected Daily Average Flow in MGD	Fee
.001 - .05	\$240
.051 - .1	\$360
.101 - .2	\$840
.201 - .3	\$1,200
.301 - .5	\$1,680
.501 - 1.0	\$2,060
1.001 - 2.0	\$3,600
2.001 - 5.0	\$5,400
5.001 - 10.0	\$8,400
10.001 - 15.0	\$12,000
15.001 - 30.0	\$16,800
30.001 - 50.0	\$22,800
50.001 - 100.0	\$28,800
> 100.0	\$34,800

SECTION 60. IC 13-18-21-2, AS AMENDED BY P.L.132-1999,  
SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2003]: Sec. 2. (a) The drinking water revolving loan fund is  
established to provide money for loans and other financial assistance  
under this chapter to or for the benefit of participants, including  
forgiveness of principal if allowed under federal law. **The authority  
shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund.  
Grants or gifts of money to the fund from the federal government or  
other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10  
through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including  
interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the  
fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings  
that accrue from these investments shall be deposited in the fund.



(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a participant;
- (4) the Indiana bond bank; ~~or~~
- (5) **the authority; or**
- (6) any person to which **the authority**, the department, the budget agency, or a participant is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), the cost of administering the fund and the program may be paid from the fund or from ~~four percent (4%) of the other~~ money. ~~allotted to the state under 42 U.S.C. 300j-12.~~

(g) ~~All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.~~

(h) ~~Money in the fund does not revert to the state general fund at the end of a state fiscal year.~~

SECTION 61. IC 13-18-21-3, AS AMENDED BY P.L.132-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) Money in the fund may be used to do the following:

- (1) Provide loans or other financial assistance to participants for the:
    - (A) planning;
    - (B) designing;
    - (C) construction;
    - (D) renovation;
    - (E) improvement;
    - (F) expansion; or
    - (G) any combination of clauses (A) through (F);
- for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the federal Safe Drinking Water Act (42



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U.S.C. 300f et seq.) or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and other activities necessary or convenient to complete these tasks.

(2) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Notwithstanding section 2(g) of this chapter, if an adequate state match is available, the department and the budget agency ~~shall~~ **may** use **not more than** two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten thousand (10,000) persons in Indiana. The department and the budget agency may jointly contract with a person or persons to provide the technical assistance. Funds used under this subsection may not be used for enforcement actions.

(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana to the extent that the money can be obligated for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq., the budget agency and the department shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. This is all the legal authority required by the state for the budget agency and the department to ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. The department has primary responsibility to carry out this subsection.

(e) This chapter does not require the budget agency to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued to finance the program to lose their exemption from federal income taxation.

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SECTION 62. IC 13-18-21-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) Money in the fund may be used to do the following:**

**(1) Provide loans or other financial assistance to participants for the:**

**(A) planning;**

**(B) designing;**

**(C) construction;**

**(D) renovation;**

**(E) improvement;**

**(F) expansion; or**

**(G) doing of any combination of clauses (A) through (F);**

**for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and other activities necessary or convenient to complete these tasks.**

**(2) Pay the cost of administering the fund and the program.**

**(3) Conduct all other activities that are allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).**

**(b) If an adequate state match is available, the authority may use not more than two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten thousand (10,000) persons in Indiana. Funds used under this subsection may not be used for enforcement actions.**

**(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana, to the extent that the money can be obligated for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).**

**(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq., the authority shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. This is all the legal authority required by the state for the authority to ensure that all new community water**

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1 systems and new nontransient, noncommunity water systems, as  
 2 contemplated by the federal Safe Drinking Water Act (42 U.S.C.  
 3 300f et seq.), commencing operations after October 1, 1999,  
 4 demonstrate technical, managerial, and financial capacity with  
 5 respect to each federal primary drinking water regulation in effect  
 6 on the date operations commence.

7 (e) This chapter does not require the authority to provide a loan  
 8 or other financial assistance to any participant that would cause  
 9 any bonds or other obligations issued to finance the program to  
 10 lose their exemption from federal income taxation.

11 (f) The authority may contract with the department, the budget  
 12 agency, or any other entity or person for assistance in  
 13 administering the program and the fund and in carrying out the  
 14 purposes of this chapter.

15 SECTION 63. IC 13-18-21-5 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The ~~department~~  
 17 authority shall do the following:

18 (1) **Administer, hold, and** manage all aspects of **the fund**, the  
 19 program, ~~except as provided by section 6 of this chapter: and the~~  
 20 **supplemental program in accordance with this chapter.**

21 (2) Be the point of contact in relations with the United States  
 22 Environmental Protection Agency. ~~except as provided in section~~  
 23 ~~6 of this chapter.~~

24 (3) Cooperate with the **department and the** budget agency in the  
 25 administration and management of the program **and**

26 ~~(4) Cooperate with the budget agency in preparing and providing~~  
 27 ~~program information.~~

28 ~~(5) Review~~ **(4) Ensure that** each proposed financial assistance  
 29 agreement ~~to determine whether the agreement~~ meets the  
 30 environmental and technical aspects of the program.

31 ~~(6)~~ **(5)** Periodically inspect project design and construction to  
 32 determine compliance with the following:

33 (A) This chapter.

34 (B) The federal Safe Drinking Water Act (42 U.S.C. 300f et  
 35 seq.).

36 (C) Construction plans and specifications.

37 ~~(7) (6)~~ Negotiate ~~jointly with the budget agency~~, the negotiable  
 38 aspects of each financial assistance agreement.

39 ~~(8) If not accepted and held by the budget agency; Accept and~~  
 40 ~~hold any letter of credit from the federal government~~ **(7) Manage**  
 41 **any payment system** through which the state receives grant  
 42 payments **from the federal government** for the program and

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disbursements to the fund.

~~(9)~~ **(8)** Prepare jointly with the budget agency, annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

~~(10)~~ **(9)** Submit the reports prepared under subdivision ~~(9)~~ **(8)** to the governor, and the general assembly.

~~(11)~~ Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:

~~(A)~~ The fund.

~~(B)~~ The program.

~~(C)~~ The supplemental fund.

~~(D)~~ The supplemental program.

the budget committee, and the legislative services agency.

**(10)** Be the point of contact with participants and other interested persons in preparing and providing program information.

**(11)** Prepare or cause to be prepared each financial assistance agreement.

**(12)** Execute each financial assistance agreement.

**(13)** Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

SECTION 64. IC 13-18-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The budget agency authority may do the following:

(1) Employ:

(A) fiscal consultants;

(B) engineers;

(C) ~~bond~~ general counsel;

(D) special counsel;

(E) accountants; and

(F) any other consultants, employees, and agents;

that the budget agency authority considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of persons employed in subdivision (1) from money:



(A) available in the fund; or

(B) otherwise made available for the program.

**(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the fund and the program.**

**(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.**

SECTION 65. IC 13-18-21-8, AS AMENDED BY P.L.132-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The department and the budget agency authority may:

~~(1) provide services to a participant in connection with a loan or other financial assistance, including advisory and other services; and~~

~~(2) (1) charge a fee for services provided; (b) The department and the budget agency may and~~

~~(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.~~

~~(c) (b) A political subdivision participant~~ may pay fees charged under this section.

SECTION 66. IC 13-18-21-9, AS AMENDED BY P.L.132-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a)~~ The department authority shall use a priority ranking system ~~to recommend in making~~ loans or other financial assistance from the fund. The department authority shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

~~(b) Based on the recommendations made under subsection (a); the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of participants.~~

SECTION 67. IC 13-18-21-10, AS AMENDED BY P.L.132-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The budget agency authority may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for planning, designing, constructing, renovating,

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improving, and expanding public water systems, **for any purpose eligible for assistance under the federal Safe Drinking Water Act**, and for other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish **guaranties**, reserves, or sinking funds, **including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~

~~(3) (2)~~ The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

~~(4) (3)~~ Notwithstanding any other law, the ~~budget agency~~ **authority** may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 68. IC 13-18-21-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency~~.



**authority.**

(2) Unless otherwise provided by ~~rule~~, **the guidelines of the authority**, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 69. IC 13-18-21-13, AS AMENDED BY P.L.132-1999, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency~~ **authority**. Proceeds of sales under this section shall be deposited in the fund.

SECTION 70. IC 13-18-21-14, AS AMENDED BY P.L.132-1999, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of participants; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by



the department and the budget agency under this section, or a pledge of property made by the authority under this section, is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section is binding on the authority.** Revenues, other money, or other property pledged and **thereafter** received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; ~~or~~
- (3) the fund; **or**
- (4) the authority;**

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~ **authority**.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 71. IC 13-18-21-15, AS AMENDED BY P.L.132-1999, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (other than a loan to a qualified entity described in IC 13-11-2-164(b)(4)); as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:~~

(1) A base or subsidized interest rate that:

- (A) would be payable by participants other than participants described in subdivision (2) or (3); and
- (B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.

(2) A base reduced or more heavily subsidized interest rate that:

- (A) is payable by a participant with median household incomes that are:

- (i) not more than the state median household income for an area that is not a metropolitan area, as determined and



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reported periodically by the federal government; and  
 (ii) not less than eighty-one percent (81%) of the state  
 median household income for an area that is not a  
 metropolitan area; and

(B) may provide that payment of interest is not required during  
 all or part of the estimated construction period for the public  
 water system.

(3) A base of zero (0) or the most heavily subsidized interest rate  
 that:

(A) would be payable on loans made to participants with  
 median household incomes that are not more than eighty  
 percent (80%) of the state household income for an area that  
 is not a metropolitan area; and

(B) may provide that payment of interest is not required during  
 all or part of the estimated construction period of the public  
 water system.

**The authority shall establish the interest rate or parameters for  
 establishing the interest rate on each loan, including parameters  
 for establishing the amount of interest subsidies.**

(b) The budget agency; authority, in recommending to the state  
 board of finance setting the interest rate or parameters for establishing  
 the interest rate on each loan, (including all loans to participants that  
 are not political subdivisions) under section 10 of this chapter, may  
 take into account the following:

- (1) Credit risk.
- (2) Environmental, water quality, and health protection.
- (3) Affordability.
- (4) Other fiscal factors the budget agency authority considers  
 relevant, including the program's cost of funds and whether the  
 financial assistance provided to a particular participant is taxable  
 or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than  
 one (1) interest rate may be established and used for loans made or  
 other financial assistance to different participants in the same interest  
 rate category.

(c) In financing the program, the Indiana bond bank, and the Indiana  
 development finance authority shall issue at the budget agency's  
 request:

- (1) revenue bonds payable from and secured by participants; and
- (2) loan payments made by and to participants.

The budget agency or the state board of finance is not required by this  
 chapter to establish interest rates on loans or parameters for



1 establishing interest rates that would cause any revenue bonds to be  
 2 insecure or otherwise negatively affect the ability of the state to  
 3 continue to finance the program. or for different loans or other  
 4 financial assistance to the same participants.

5 SECTION 72. IC 13-18-21-16, AS AMENDED BY P.L.132-1999,  
 6 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2003]: Sec. 16. The ~~budget agency~~ **authority** shall require a  
 8 participant receiving a loan or other financial assistance under this  
 9 chapter to establish under applicable law and maintain sufficient user  
 10 charges or other charges, fees, taxes, special assessments, or revenues  
 11 available to the participant to:

12 (1) operate and maintain the public water system; and

13 (2) pay the obligations of the public water system.

14 SECTION 73. IC 13-18-21-17, AS AMENDED BY P.L.132-1999,  
 15 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2003]: Sec. 17. (a) Notwithstanding any other law and if  
 17 provided in a financial assistance agreement, a state department or state  
 18 agency, including the treasurer of state, that is the custodian of money  
 19 payable to a participant, other than money in payment for goods or  
 20 services provided by the participant, may withhold payment of money  
 21 from that participant and pay over the money to the ~~budget agency~~  
 22 **authority** or the Indiana bond bank as directed by the budget director;  
 23 for the purpose of curing a default. ~~Withholding payment under this~~  
 24 ~~subsection may not occur until after written notice from the budget~~  
 25 ~~director that the participant is in default on the payment of principal or~~  
 26 ~~interest on a loan or evidence of other financial assistance.~~

27 (b) The withholding of payment from the participant and payment  
 28 to:

29 (1) the ~~budget agency;~~ **authority**; or

30 (2) the Indiana bond bank;

31 as applicable, may not adversely affect the validity of the ~~defaulted~~  
 32 loan or other financial assistance.

33 SECTION 74. IC 13-18-21-18 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The ~~water pollution~~  
 35 ~~control board and the budget agency~~ **authority** may jointly adopt rules  
 36 **under guidelines, without complying with IC 4-22-2, including**  
 37 **emergency rules under IC 4-22-2-37.1, to implement govern the**  
 38 **administration of** this chapter.

39 SECTION 75. IC 13-18-21-19 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) Notwithstanding  
 41 any other law, a political subdivision may borrow money under this  
 42 chapter by negotiating a loan or other financial assistance directly and

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without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes periodically on terms agreed to with the budget agency, and the budget agency may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

(1) in the amounts; and

(2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the budget agency.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes ~~to the department and the budget agency~~, **for the benefit of the program**, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:

(1) valid and binding obligations of the political subdivision;

(2) enforceable in accordance with the terms of the notes; and

(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

(1) provisions of this section; or

(2) actual issuance by a political subdivision of notes under subsection (b);

do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 76. IC 13-18-21-19.5 IS ADDED TO THE INDIANA



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CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2003]: **Sec. 19.5. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.**

**(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.**

**(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes periodically on terms agreed to with the authority, and the authority may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.**

**(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:**

**(1) in the amounts; and**

**(2) at the times not exceeding four (4) years from the date of original issuance;**

**that are agreed to by the political subdivision and the authority.**

**(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes for the benefit of the program, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:**

**(1) valid and binding obligations of the political subdivision;**

**(2) enforceable in accordance with the terms of the notes; and**

**(3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.**

**(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:**

**(1) provisions of this section; or**

**(2) actual issuance by a political subdivision of notes under subsection (b);**



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1 **do not relieve the political subdivision of the obligation to comply**  
 2 **with the statutory requirements for the issuance of bonds.**

3 SECTION 77. IC 13-18-21-20, AS AMENDED BY P.L.132-1999,  
 4 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2003]: Sec. 20. (a) As an alternative to making loans or  
 6 providing other financial assistance to participants, the ~~budget agency~~  
 7 **authority** may use the money in the fund to provide a leveraged loan  
 8 program and other financial assistance programs allowed by the federal  
 9 Safe Drinking Water Act (42 U.S.C. 300f et seq.) to or for the benefit  
 10 of participants, including using money in the fund or a supplemental  
 11 fund, including the supplemental fund established by section 22 of this  
 12 chapter, to enhance the obligations of participants issued for the  
 13 purposes of this chapter by:

14 (1) granting money to:

15 (A) be deposited in:

16 (i) a capital or reserve fund established under IC 5-1.5,  
 17 **IC 13-17.5**, or another statute or a trust agreement or  
 18 indenture as contemplated by IC 13-18-21-2(e); or

19 (ii) an account established within a fund described in item  
 20 (i); or

21 (B) provide interest subsidies;

22 (2) paying bond insurance premiums, reserve insurance  
 23 premiums, or credit enhancement, liquidity support, remarketing,  
 24 or conversion fees, or other similar fees or costs for obligations of  
 25 a participant or for bonds issued by the Indiana bond bank ~~or the~~  
 26 ~~Indiana development finance authority~~ if credit market access is  
 27 improved or interest rates are reduced; or

28 (3) guaranteeing all or part of:

29 (A) obligations issued by participants; or

30 (B) bonds issued by the Indiana bond bank. ~~or the Indiana~~  
 31 ~~development finance authority.~~

32 (b) The ~~budget agency~~ **authority** may enter into any agreements  
 33 with the Indiana bond bank ~~the Indiana development finance authority~~;  
 34 or participants to carry out the purposes specified in this chapter.

35 (c) A guarantee of obligations or bonds under subsection (a)(3) must  
 36 be limited to money in the fund. A guarantee under subsection (a)(3)  
 37 does not create a liability or indebtedness of the state.

38 SECTION 78. IC 13-18-21-22, AS AMENDED BY P.L.132-1999,  
 39 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2003]: Sec. 22. (a) The supplemental drinking water and  
 41 wastewater assistance fund is established to provide money for grants,  
 42 loans, and other financial assistance to or for the benefit of (H)



participants for the purposes described in section 23(1) of this chapter;  
 23.5(1) and (2) political subdivisions for the purposes described in  
 section 23(2) 23.5(2) of this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25  
 25.5 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the budget agency authority may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to the authority, the department, the budget agency, a participant, the Indiana bond bank, or any other person as provided in the trust agreement or indenture. The state board of finance must approve the form of any trust agreement or indenture before execution.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 79. IC 13-18-21-23, AS AMENDED BY P.L.55-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 23. (a) Money in the supplemental fund may be used to do the following:

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(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of political subdivisions for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems;

**(B) nonpoint source pollution reduction projects; and**

(C) other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants to political subdivisions for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Pay the cost of administering the supplemental fund and the supplemental program.

**(5) Place certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.**

**(6) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.**

**(b) For any state fiscal year, the budget agency may use not more than three percent (3%) of the amount estimated by the budget agency to be available for financial assistance from the supplemental fund for the year for the combined purposes of:**

**(1) providing loan assistance to political subdivisions for nonpoint source pollution reduction projects; and**

**(2) placing certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.**

**(c) Amounts estimated to be available for purposes of subsection (b) for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.**

SECTION 80. IC 13-18-21-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 23.5. (a) Subject to subsection (b),**

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money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Provide grants, loans, or other financial assistance to or for the benefit of participants for:

(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems;

(B) nonpoint source pollution reduction projects; and

(C) other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(3) Provide grants to participants for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(4) Pay the cost of administering the supplemental fund and the supplemental program.

(5) Place certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(6) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(b) Not more than twenty-five percent (25%) of the financial assistance provided from the fund during each state fiscal year may be provided to participants that are not political subdivisions.

(c) For any state fiscal year, the authority may use not more than three percent (3%) of the amount estimated by the authority to be available for financial assistance from the supplemental fund for the year for the combined purposes of:

(1) providing loan assistance to political subdivisions for nonpoint source pollution reduction projects; and

(2) placing certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(d) Amounts estimated to be available for purposes of

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1 subsection (c) for any year that remain unused at the end of the  
 2 year may be carried forward for use in any subsequent state fiscal  
 3 year.

4 SECTION 81. IC 13-18-21-24, AS AMENDED BY P.L.132-1999,  
 5 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2003]: Sec. 24. The budget agency authority shall develop  
 7 criteria to ~~recommend~~ **make or provide** grants, loans, or other  
 8 financial assistance from the supplemental fund.

9 SECTION 82. IC 13-18-21-25, AS AMENDED BY P.L.55-2001,  
 10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2002]: Sec. 25. (a) The budget agency may make grants or  
 12 loans or provide other financial assistance from the supplemental fund  
 13 for the benefit of a participant under the following conditions:

14 (1) A grant, loan, or other financial assistance may be used:

15 (A) for planning, designing, acquiring, constructing,  
 16 renovating, improving, or expanding public water systems, and  
 17 other activities necessary or convenient to complete these  
 18 tasks;

19 (B) to:

20 (i) establish reserves or sinking funds; or

21 (ii) provide interest subsidies;

22 (C) to pay financing charges, including interest on the loan  
 23 during construction and for a reasonable period after the  
 24 completion of construction; or

25 (D) to pay the following:

26 (i) Consultant, advisory, and legal fees.

27 (ii) Other costs or expenses necessary or incident to the  
 28 grant, loan, or other financial assistance or the  
 29 administration of the supplemental fund or the supplemental  
 30 program.

31 (2) The budget agency must establish the terms and conditions  
 32 that the budget agency considers necessary or convenient to make  
 33 grants or loans or provide other financial assistance under this  
 34 chapter.

35 (b) In addition to its powers under subsection (a), the budget agency  
 36 may also make grants or loans or provide other financial assistance  
 37 from the supplemental fund to or for the benefit of a political  
 38 subdivision under the following conditions:

39 (1) A grant, loan, or other financial assistance may be used:

40 (A) for planning, designing, acquiring, constructing,  
 41 renovating, improving, or expanding wastewater or storm  
 42 water collection and treatment systems **and nonpoint source**

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**pollution reduction projects** and other activities necessary or convenient to complete ~~these the~~ tasks **referred to in this clause.**

(B) to:

(i) establish reserves or sinking funds; or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) A grant may be used for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 83. IC 13-18-21-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25.5 (a) The authority may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:**

**(1) A grant, loan, or other financial assistance may be used:**

**(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;**

**(B) to:**

**(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the supplemental fund (including financial institutions) for a purpose permitted by clause (A); or**



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- 1 (ii) provide interest subsidies;  
 2 (C) to pay financing charges, including interest on the loan  
 3 during construction and for a reasonable period after the  
 4 completion of construction; or  
 5 (D) to pay the following:  
 6 (i) Consultant, advisory, and legal fees.  
 7 (ii) Other costs or expenses necessary or incident to the  
 8 grant, loan, or other financial assistance or the  
 9 administration of the supplemental fund or the  
 10 supplemental program.  
 11 (2) The authority must establish the terms and conditions that  
 12 the authority considers necessary or convenient to make  
 13 grants or loans or provide other financial assistance under  
 14 this chapter.  
 15 (b) In addition to its powers under subsection (a), the authority  
 16 may also make grants or loans or provide other financial assistance  
 17 from the supplemental fund to or for the benefit of a participant  
 18 under the following conditions:  
 19 (1) A grant, loan, or other financial assistance may be used:  
 20 (A) for planning, designing, acquiring, constructing,  
 21 renovating, improving, or expanding wastewater or storm  
 22 water collection and treatment systems and nonpoint  
 23 source pollution reduction projects and other activities  
 24 necessary or convenient to complete the tasks referred to  
 25 in this clause;  
 26 (B) to:  
 27 (i) establish guaranties, reserves, or sinking funds,  
 28 including guaranties, reserves, or sinking funds to secure  
 29 and pay, in whole or in part, loans or other financial  
 30 assistance made from sources other than the  
 31 supplemental fund (including financial institutions) for  
 32 a purpose permitted by clause (A); or  
 33 (ii) provide interest subsidies;  
 34 (C) to pay financing charges, including interest on the loan  
 35 during construction and for a reasonable period after the  
 36 completion of construction; or  
 37 (D) to pay the following:  
 38 (i) Consultant, advisory, and legal fees.  
 39 (ii) Other costs or expenses necessary or incident to the  
 40 grant, loan, or other financial assistance or the  
 41 administration of the supplemental fund or the  
 42 supplemental program.

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(2) A grant may be used for tasks associated with the development and preparation of:

(A) long term control plans;

(B) use attainability analyses; and

(C) storm water management programs.

(3) The authority must establish the terms and conditions that the authority considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 84. IC 13-18-21-26, AS AMENDED BY P.L.132-1999, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the ~~budget agency~~ **authority**.

(b) ~~Unless otherwise provided by rule,~~ **The authority may require that** a loan or other financial assistance ~~must~~ be accompanied by the following:

(1) A certification and guarantee of signatures.

(2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:

(A) the grant, loan, or other financial assistance; or

(B) any security for the loan or other financial assistance.

~~(c) The budget agency may require~~

**(3) Any other certifications, agreements, security, or requirements that the authority requests.**

**(4) An approving opinion of nationally recognized bond counsel.**

SECTION 85. IC 13-18-21-28, AS AMENDED BY P.L.132-1999, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

(1) periodically;

(2) at any price; and

(3) on terms acceptable to the ~~budget agency~~ **authority**.

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the ~~budget director~~ **authority**.

SECTION 86. IC 13-18-21-29, AS AMENDED BY P.L.132-1999, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) The ~~budget agency~~ **authority** may pledge:

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- (1) loans or evidences of other financial assistance; and
- (2) other obligations evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the ~~budget agency~~ **authority**.

(c) Notwithstanding any other law, a pledge of property made by the ~~budget agency~~ **authority** under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the ~~department~~ **authority**;
- (2) the budget agency; or
- (3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~ **authority**.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 87. IC 13-18-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

**Chapter 22. Nonpoint Source Pollution Reduction Project Loan Program**

**Sec. 1. (a) A financial institution may apply to the budget agency for eligibility to receive certificates of deposit under section 6 of this chapter. Upon receipt of the application, the budget agency shall:**

- (1) review the applicant's ability to comply with this chapter; and**
- (2) based on the review, accept or reject the application.**

**(b) A financial institution approved to receive certificates of deposit under section 6 of this chapter shall accept and review applications for loans under section 2 of this chapter from private**



1 entities for nonpoint source pollution reduction projects. A  
 2 financial institution shall apply usual lending standards to  
 3 determine the credit worthiness of each loan applicant and may:

- 4 (1) reject a loan application; or
- 5 (2) preliminarily approve a loan application, subject to final  
 6 approval by the budget agency under section 6 of this chapter.

7 Sec. 2. (a) A private entity may apply to a financial institution  
 8 approved under section 1 of this chapter for a loan for a nonpoint  
 9 source pollution reduction project.

10 (b) On its loan application under subsection (a), a private entity  
 11 shall:

- 12 (1) identify the nonpoint source pollution reduction project  
 13 for which the loan is intended; and
- 14 (2) certify that the reduced rate loan will be used exclusively  
 15 for that project.

16 Sec. 3. A financial institution that receives a loan application  
 17 under section 2 of this chapter shall forward the loan application  
 18 to:

- 19 (1) the budget agency in the form and manner prescribed by  
 20 the budget agency; and
- 21 (2) the department in the form and manner prescribed by the  
 22 department.

23 Sec. 4. The department shall recommend to the budget agency  
 24 a priority ranking system for approving loans under this chapter  
 25 to achieve optimum water quality consistent with the water quality  
 26 goals of the state and the federal Clean Water Act.

27 Sec. 5. The budget agency shall:

- 28 (1) considering the recommendation of the department under  
 29 section 4 of this chapter, develop a priority ranking system for  
 30 approving loans under this chapter; and
- 31 (2) use the priority ranking system developed under  
 32 subdivision (1) in approving loans under this chapter.

33 Sec. 6. (a) The budget agency may accept or reject:

- 34 (1) a loan application received under section 3 of this chapter;  
 35 or
- 36 (2) any part of the application.

37 (b) Upon acceptance of a loan application received under section  
 38 3 of this chapter or any part of the application, the budget agency  
 39 shall place a certificate of deposit with the financial institution at  
 40 three percent (3%) below current market rates, as determined and  
 41 calculated by the budget agency. The budget agency shall transfer  
 42 funds for the certificate of deposit from:



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(1) the wastewater revolving loan fund established by IC 13-18-13-2; or

(2) the supplemental drinking water and wastewater assistance fund established by IC 13-18-21-22.

(c) The budget agency may place a certificate of deposit with a financial institution before acceptance of a loan application.

(d) The financial institution in which a certificate of deposit is placed under this section shall enter into a deposit agreement with the budget agency that includes:

(1) the period in which the financial institution is to lend funds as provided in section 7 of this chapter upon the placement of the certificate of deposit;

(2) the interest payment schedule determined by the budget agency;

(3) a provision for the certificate of deposit to be placed for a maturity of not more than two (2) years, as determined by the budget agency;

(4) a provision for the certificate of deposit to be renewed for up to two (2) years at the option of the budget agency; and

(5) any other provisions required by the budget agency.

Sec. 7. (a) Upon the placement of a certificate of deposit with a financial institution under section 6 of this chapter, the financial institution shall lend the funds received for the certificate of deposit to each approved private entity listed in the loan application in accordance with the deposit agreement required by section 6 of this chapter. The loan shall be at three percent (3%) below current market rates, as determined and calculated by the budget agency.

(b) A financial institution in which a certificate of deposit is placed under section 6 of this chapter shall certify compliance with this chapter to the budget agency in the form and manner prescribed by the budget agency.

Sec. 8. The budget agency shall:

(1) take all steps necessary to implement the loan program under this chapter; and

(2) monitor compliance of financial institutions and loan recipients.

Sec. 9. The budget agency shall report annually before January 10 on the loan program under this chapter for the preceding calendar year to:

(1) the governor; and

(2) the legislative council.



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1       **Sec. 10. (a)** The state and the budget agency are not liable to any  
 2       financial institution in any manner for payment of the principal or  
 3       interest on the loan to a private entity under this chapter.

4       **(b)** Any delay in payments or default on the part of a private  
 5       entity does not affect the deposit agreement under section 6 of this  
 6       chapter.

7       SECTION 88. IC 13-18-22.5 IS ADDED TO THE INDIANA  
 8       CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
 9       [EFFECTIVE JULY 1, 2003]:

10       **Chapter 22.5. Nonpoint Source Pollution Reduction Project**  
 11       **Loan Program**

12       **Sec. 1. (a)** A financial institution may apply to the authority for  
 13       eligibility to receive certificates of deposit under section 6 of this  
 14       chapter. Upon receipt of the application, the authority shall:

- 15               (1) review the applicant's ability to comply with this chapter;  
 16               and  
 17               (2) based on the review, accept or reject the application.

18       **(b)** A financial institution approved to receive certificates of  
 19       deposit under section 6 of this chapter shall accept and review  
 20       applications for loans under section 2 of this chapter from private  
 21       entities for nonpoint source pollution reduction projects. A  
 22       financial institution shall apply usual lending standards to  
 23       determine the credit worthiness of each loan applicant and may:

- 24               (1) reject a loan application; or  
 25               (2) preliminarily approve a loan application, subject to final  
 26               approval by the authority under section 6 of this chapter.

27       **Sec. 2. (a)** A private entity may apply to a financial institution  
 28       approved under section 1 of this chapter for a loan for a nonpoint  
 29       source pollution reduction project.

30       **(b)** On its loan application under subsection (a), a private entity  
 31       shall:

- 32               (1) identify the nonpoint source pollution reduction project  
 33               for which the loan is intended; and  
 34               (2) certify that the reduced rate loan will be used exclusively  
 35               for that project.

36       **Sec. 3.** A financial institution that receives a loan application  
 37       under section 2 of this chapter shall forward the loan application  
 38       to:

- 39               (1) the authority in the form and manner prescribed by the  
 40               authority; and  
 41               (2) the department in the form and manner prescribed by the  
 42               department.



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1       Sec. 4. The department shall recommend to the authority a  
 2       priority ranking system for approving loans under this chapter to  
 3       achieve optimum water quality consistent with the water quality  
 4       goals of the state and the federal Clean Water Act.

5       Sec. 5. The authority shall:

6           (1) considering the recommendation of the department under  
 7           section 4 of this chapter, develop a priority ranking system for  
 8           approving loans under this chapter; and

9           (2) use the priority ranking system developed under  
 10          subdivision (1) in approving loans under this chapter.

11      Sec. 6. (a) The authority may accept or reject:

12           (1) a loan application received under section 3 of this chapter;  
 13           or

14           (2) any part of the application.

15      (b) Upon acceptance of a loan application received under section  
 16      3 of this chapter or any part of the application, the authority shall  
 17      place a certificate of deposit with the financial institution at three  
 18      percent (3%) below current market rates, as determined and  
 19      calculated by the authority. The authority shall transfer funds for  
 20      the certificate of deposit from:

21           (1) the wastewater revolving loan fund established by  
 22           IC 13-18-13-2; or

23           (2) the supplemental drinking water and wastewater  
 24           assistance fund established by IC 13-18-21-22.

25      (c) The authority may place a certificate of deposit with a  
 26      financial institution before acceptance of a loan application.

27      (d) The financial institution in which a certificate of deposit is  
 28      placed under this section shall enter into a deposit agreement with  
 29      the authority that includes:

30           (1) the period in which the financial institution is to lend funds  
 31           as provided in section 7 of this chapter upon the placement of  
 32           the certificate of deposit;

33           (2) the interest payment schedule determined by the  
 34           authority;

35           (3) a provision for the certificate of deposit to be placed for a  
 36           maturity of not more than two (2) years, as determined by the  
 37           authority;

38           (4) a provision for the certificate of deposit to be renewed for  
 39           up to two (2) years at the option of the authority; and

40           (5) any other provisions required by the authority.

41      Sec. 7. (a) Upon the placement of a certificate of deposit with a  
 42      financial institution under section 6 of this chapter, the financial

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1 institution shall lend the funds received for the certificate of  
 2 deposit to each approved private entity listed in the loan  
 3 application in accordance with the deposit agreement required by  
 4 section 6 of this chapter. The loan shall be at three percent (3%)  
 5 below current market rates, as determined and calculated by the  
 6 authority.

7 (b) A financial institution in which a certificate of deposit is  
 8 placed under section 6 of this chapter shall certify compliance with  
 9 this chapter to the authority in the form and manner prescribed by  
 10 the authority.

11 Sec. 8. The authority shall:

12 (1) take all steps necessary to implement the loan program  
 13 under this chapter; and

14 (2) monitor compliance of financial institutions and loan  
 15 recipients.

16 Sec. 9. The authority shall report annually before January 10 on  
 17 the loan program under this chapter for the preceding calendar  
 18 year to:

19 (1) the governor; and

20 (2) the legislative council.

21 Sec. 10. (a) The state and the authority are not liable to any  
 22 financial institution in any manner for payment of the principal or  
 23 interest on the loan to a private entity under this chapter.

24 (b) Any delay in payments or default on the part of a private  
 25 entity does not affect the deposit agreement under section 6 of this  
 26 chapter.

27 SECTION 89. IC 16-41-27-10 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. A mobile home  
 29 park shall provide a water supply through the use of a public water  
 30 supply system if the water supply is reasonably available within a  
 31 reasonable distance from the mobile home park. A mobile home park  
 32 is not required to use a public water supply system if the water system  
 33 is more than two thousand (2,000) feet from the mobile home park. If  
 34 a public water supply system is not available, water shall be provided  
 35 by a system approved by the environmental commissioner under rules  
 36 adopted by the water pollution control board.

37 SECTION 90. IC 16-41-27-22 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. (a) The  
 39 construction of a new mobile home park or alteration of an existing  
 40 mobile home park shall be made only after plans for the proposed  
 41 construction or alteration have been forwarded to and approved by the  
 42 state department.



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(b) A **public water supply** system may not be constructed or altered in a new or existing mobile home park until plans for the construction or alteration have been forwarded to and approved by the environmental commissioner under rules adopted by the water board.

(c) A sewage collection and disposal system may not be constructed or altered in a new or existing mobile home park until:

(1) plans for construction or alteration of the sewage collection system and any septic tank absorption field have been forwarded to and approved by the state department under rules adopted by the state department; and

(2) plans for construction or alteration of any sewage disposal system other than a septic tank absorption field have been forwarded to and approved by the environmental commissioner under rules adopted by the water board.

SECTION 91. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2002]: IC 13-11-2-177; IC 13-11-2-263.

SECTION 92. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 13-18-13-3; IC 13-18-13-4; IC 13-18-13-6; IC 13-18-13-10; IC 13-18-13-19; IC 13-18-21-3; IC 13-18-21-4; IC 13-18-21-6; IC 13-18-21-19; IC 13-18-21-23; IC 13-18-21-25; IC 13-18-22.

SECTION 93. [EFFECTIVE JULY 1, 2003] (a) **On July 1, 2003, all powers, duties, agreements, and liabilities of the treasurer of state, the department of environmental management, and the budget agency with respect to:**

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and

(3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;

**are transferred to the environmental assistance authority as the successor for the limited purposes described in subdivisions (1) through (3) and for the purposes described in IC 13-17.5, as added by this act.**

(b) **On July 1, 2003, all records, money, and other property of the treasurer of state, the department of environmental management, and the budget agency with respect to:**

(1) the wastewater revolving loan program established by IC 13-18-13-1;

(2) the drinking water revolving loan program established by IC 13-18-21-1; and



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(3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21; are transferred to the environmental assistance authority as the successor for the limited purposes described in subdivisions (1) through (3) and for the purposes described in IC 13-17.5, as added by this act.

(c) After June 30, 2003, 85 IAC 1, 85 IAC 2, 327 IAC 13, and 327 IAC 14 are void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove these articles from the Indiana Administrative Code.

(d) After June 30, 2003, any proposed rules amending 85 IAC 1, 85 IAC 2, 327 IAC 13, or 327 IAC 14 that were officially proposed and published in the Indiana Register before July 1, 2003, shall be treated as if they were withdrawn under IC 4-22-2-41.

SECTION 94. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 13-17.5-1-2, as added by this act, the initial terms of office of the five (5) members appointed by the governor to the board of directors of the environmental assistance authority are as follows:

(1) Two (2) members shall serve a term of two (2) years.

(2) Three (3) members shall serve a term of three (3) years.

(b) This SECTION expires July 1, 2006.

SECTION 95. [EFFECTIVE JULY 1, 2002] (a) The environmental assistance authority shall make guidelines before January 1, 2004, to implement IC 13-18-22, as added by this act.

(b) This SECTION expires January 1, 2004.

SECTION 96. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1329, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-21.5-3-4, AS AMENDED BY P.L.54-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) Notice must be given under this section concerning the following:

- (1) The grant, renewal, restoration, transfer, or denial of a license by the bureau of motor vehicles under IC 9.
- (2) The grant, renewal, restoration, transfer, or denial of a noncommercial fishing or hunting license by the department of natural resources under IC 14.
- (3) The grant, renewal, restoration, transfer, or denial of a license by a board described in IC 25-1-8-1.
- (4) The grant, renewal, suspension, revocation, or denial of a certificate of registration under IC 25-5.2.
- (5) A personnel decision by an agency.
- (6) The grant, renewal, restoration, transfer, or denial of a license by the department of environmental management or the commissioner of the department under the following:

(A) Environmental management laws (as defined in IC 13-11-2-71) for the construction, installation, or modification of:

- (i) sewers and appurtenant facilities, devices, or structures for the collection and transport of sewage (as defined in IC 13-11-2-200) or storm water to a storage or treatment facility or to a point of discharge into the environment; or
- (ii) pipes, pumps, and appurtenant facilities, devices, or structures that are part of a public water ~~supply system~~ **system** (as defined in ~~IC 13-11-2-177~~ **IC 13-11-2-177.3**) and that are used to transport water to a storage or treatment facility or to distribute water to the users of the public water ~~supply~~ **system**;

where a federal, state, or local governmental body has given or will give public notice and has provided or will provide an opportunity for public participation concerning the activity that is the subject of the license.

(B) Environmental management laws (as defined in

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IC 13-11-2-71) for the registration of a device or a piece of equipment.

(C) IC 13-17-6-1 for a person to engage in the inspection, management, and abatement of asbestos containing material.

(D) IC 13-18-11 for a person to operate a wastewater treatment plant.

(E) IC 13-15-10 for a person to operate the following:

(i) A solid waste incinerator or a waste to energy facility.

(ii) A land disposal site.

(iii) A facility described under IC 13-15-1-3 whose operation could have an adverse impact on the environment if not operated properly.

(F) IC 13-20-4 for a person to operate a municipal waste collection and transportation vehicle.

(b) When an agency issues an order described by subsection (a), the agency shall give a written notice of the order to the following persons:

(1) Each person to whom the order is specifically directed.

(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party on the record of the proceeding.

(c) The notice must include the following:

(1) A brief description of the order.

(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.

(3) Any information required by law.

(d) An order under this section is effective when it is served. However, if a timely and sufficient application has been made for renewal of a license described by subsection (a)(3) and review is granted under section 7 of this chapter, the existing license does not expire until the agency has disposed of the proceeding under this chapter concerning the renewal, unless a statute other than this article provides otherwise. This subsection does not preclude an agency from issuing under IC 4-21.5-4 an emergency or other temporary order with respect to the license.

(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a

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preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 13-11-2-108, AS AMENDED BY P.L.72-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 108. "Industrial permit", for purposes of IC 13-14-8-11.6 and IC 13-18-20, refers to a National Pollutant Discharge Elimination System (NPDES) permit other than a permit issued to any of the following:

- (1) a municipal facility;
- (2) a state facility;
- (3) a federal facility;
- (4) a semipublic facility;
- (5) a public water ~~supply~~ **system** facility; or
- (6) a facility for storm water discharge."

Page 2, between lines 27 and 28, begin a new paragraph and insert: "SECTION 6. IC 13-11-2-177.3, AS AMENDED BY P.L.14-2000, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 177.3. "Public water system", for purposes of this chapter, ~~and IC 13-18-11, IC 13-18-21, and other environmental management laws,~~ has the meaning set forth in 42 U.S.C. 300f."

Page 3, between lines 6 and 7, begin a new paragraph and insert: "SECTION 9. IC 13-11-2-259 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 259. "Water distribution system", for purposes of IC 13-18-11 and environmental management laws, means that part of the **public** water ~~supply~~ system in which water is conveyed from the water treatment plant to the premises of the consumer.

SECTION 10. IC 13-11-2-264 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 264. "Water treatment plant", for purposes of IC 13-18-11 and environmental management laws, means that part of the **public** water ~~supply~~ system that provides the water or in some way alters the physical, chemical, or bacteriological quality of the water.

SECTION 11. IC 13-15-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) This chapter

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applies to an application for a permit issued under IC 13-15-1 upon property:

- (1) that is undeveloped; or
- (2) for which a valid existing permit has not been issued.

(b) This chapter does not apply to an application for a permit issued under IC 13-15-1 if the permit is for the construction, installation, or modification of any of the following:

- (1) A combined sewer.
- (2) A sanitary sewer.
- (3) A storm sewer.
- (4) A public water ~~supply~~ **system**.
- (5) A water main extension.

SECTION 12. IC 13-18-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) When a vacancy in a position of operator occurs due to death, resignation, extended illness, or a similar cause, the vacancy may be filled for a period not exceeding one (1) year by an operator with a provisional certification.

(b) On written request of the governing body or owner of a wastewater or **public water supply system**, the commissioner may issue a provisional certification under subsection (a) to a person with the required education and experience qualifications, until the person has had an opportunity to qualify by examination and be certified under this chapter."

Page 3, delete lines 34 through 42.

Delete page 4.

Page 5, delete lines 32 through 42.

Page 7, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 16. IC 13-18-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) A permit is required for the construction, installation, or modification of:

- (1) sources;
- (2) facilities;
- (3) equipment; or
- (4) devices;

of a public water ~~supply~~ **system**, including water distribution systems.

(b) Plans and specifications for the construction, installation, or modification of sources, facilities, equipment, or devices of a public water ~~supply~~ **system** must be submitted to the commissioner with a permit application. The plans and specifications must be complete and of sufficient detail to show all proposed construction, changes, or modifications that may affect the sanitary quality, chemical quality, or adequacy of the public water ~~supply~~ **system** involved. The applicant

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shall supply any additional data or material considered appropriate by the commissioner to a review of the plans and specifications.

(c) Unless otherwise provided in rules adopted under section 8(b) of this chapter, plans and specifications must be submitted to the commissioner with the permit application for water distribution systems.

(d) Construction, installation, or modification of a public water **supply system** may not begin until the commissioner has issued a permit under subsection (a).

(e) In determining whether to issue a permit under this section, the commissioner shall proceed under IC 13-15.

SECTION 17. IC 13-18-16-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. Plans and specifications submitted to the commissioner under section 1 of this chapter shall be approved if it is determined that the plans and specifications meet all of the following conditions:

(1) The plans and specifications are satisfactory with respect to the following:

(A) Sanitary quality, including chlorination, if required.

(B) Chemical quality.

(C) Adequacy of the water supply.

(2) The plans and specifications meet the requirements of any rules or standards adopted by the board under section 8 of this chapter governing the location, design, construction, and operation and maintenance of:

(A) public water **supply system** installations; and

(B) changes or additions to public water **supply system** installations.

SECTION 18. IC 13-18-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) All public water **supplies systems** shall be continuously operated and maintained so that water is:

(1) safe in quality;

(2) clean and adequate in quantity; and

(3) chemically satisfactory for ordinary domestic consumption.

(b) The person responsible for the operation of a public water **supply system** shall take all measures that are necessary to carry out the requirements of subsection (a) so as to protect the quality and quantity of the raw water supply from actual or threatened contamination. These measures include the relocation of the point of raw water collection to a site that is not contaminated or threatened by contamination.



(c) The failure to carry out a duty set forth in subsection (a) or (b) constitutes a violation subject to the penalties imposed under this chapter. Each day a violation occurs under this section constitutes a separate violation.

SECTION 19. IC 13-18-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. A person responsible for the operation of public water ~~supplies~~ **systems** shall submit:

- (1) samples of water for analysis; and
- (2) reports of operation pertaining to the sanitary quality, chemical quality, or adequacy of **water supplied by those supplies; systems;**

that the commissioner requests. The operator certified under IC 13-18-11 must verify under oath the reports of operation.

SECTION 20. IC 13-18-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 establishing requirements for the issuance of permits to control public water ~~supplies; systems,~~ including the following:

- (1) Permits for the construction, installation, or modification of facilities, equipment, or devices for any public water ~~supply~~ **system.**
- (2) Permits for the operation of sources, facilities, equipment, or devices for any public water ~~supply~~ **system.**

(b) The board shall adopt a permit by rule for water main extensions (as defined in 327 IAC 8-3-1) to satisfy the permit requirement in section 1(a) of this chapter.

SECTION 21. IC 13-18-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The department shall conduct a program of continuing surveillance and inspection of public water ~~supplies systems~~ and technical assistance in connection with public water ~~supplies; systems.~~

SECTION 22. IC 13-18-16-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. The department shall encourage and advise units of local government in developing programs and facilities for public water ~~supplies; systems.~~

SECTION 23. IC 13-18-16-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. A person may not:

- (1) install or contract for the construction of any public water ~~supply system~~ facilities, including water purification or treatment works; or
- (2) make any material change in any public water ~~supply system~~ facilities;



until a permit has been issued by the commissioner.

SECTION 24. IC 13-18-16-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) The commissioner may investigate and determine whether any public water ~~supply system~~ is **providing water that is** impure and dangerous to **public** health. If the commissioner determines that ~~a public the~~ water supply:

- (1) is impure and dangerous to public health; or
- (2) is not sufficiently purified because of improper construction, inadequate size, or inefficient management or operation;

the commissioner may under IC 13-30-3-10 through IC 13-30-3-12 order that the ~~public~~ water supply be made pure and safe to health.

(b) If the commissioner determines under subsection (a) that a ~~public~~ water supply is impure and dangerous to public health because of inefficient management or operation **of the public water system providing the water**, the commissioner may order the person responsible for the public water ~~supply system~~ to appoint, not later than fifteen (15) days after the commissioner's determination, a competent person to take charge of and superintend the operation of the water ~~supply system~~ plant or works.

(c) The commissioner must approve the person appointed in response to the commissioner's order under subsection (b). However, the person responsible for the water ~~supply system~~ plant or works shall pay the salary of the person appointed.

SECTION 25. IC 13-18-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The board shall adopt rules under IC 4-22-2 to establish protection zones around community water system wells.

(b) The state agencies referred to in section 5(b) of this chapter may not permit activities within the zones established under subsection (a) that would violate the rules or interfere with the purposes of the rules.

(c) The department shall establish and operate a program of education and assistance to local officials in developing and managing well field protection zones.

(d) The rules adopted under subsection (a) or any zoning under IC 36-7 to establish protection zones around community water system wells may not restrict any activity by:

- (1) an owner of land;
- (2) a mineral owner; or
- (3) a mineral leaseholder of record;

unless the owner or leaseholder is sent written notice of, and has an opportunity to be heard on, the establishment of the zone and the

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construction of the community **public** water ~~supply~~ system that caused the establishment of the zone.

(e) A person that requests a permit for construction of a community water system or establishment of a well field protection zone is responsible for any notice requirements the board establishes.

SECTION 26. IC 13-18-20-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. For public water ~~supply system~~ permits, the annual base fee per facility is:

(1) one thousand dollars (\$1,000) for a major permit; and

(2) four hundred dollars (\$400) for a minor permit;

plus the following annual discharge flow fee per facility based on projected daily average flow in MGD as set forth in a facility NPDES permit:

Projected Daily Average

Flow in MGD	Fee
.001 - .05	\$240
.051 - .1	\$360
.101 - .2	\$840
.201 - .3	\$1,200
.301 - .5	\$1,680
.501 - 1.0	\$2,060
1.001 - 2.0	\$3,600
2.001 - 5.0	\$5,400
5.001 - 10.0	\$8,400
10.001 - 15.0	\$12,000
15.001 - 30.0	\$16,800
30.001 - 50.0	\$22,800
50.001 - 100.0	\$28,800
> 100.0	\$34,800".

Page 7, line 30, reset in roman "department and the".

Page 7, line 34, reset in roman "department and the".

Page 7, line 34, reset in roman "jointly".

Page 8, line 14, reset in roman "The department has primary".

Page 8, line 15, reset in roman "responsibility to carry out this subsection."

Page 8, delete lines 20 through 42.

Delete page 9.

Page 10, delete line 1.

Page 15, after line 42, begin a new paragraph and insert:

"SECTION 32. IC 16-41-27-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. A mobile home park shall provide a water supply through the use of a public water

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~~supply~~ system if the water supply is reasonably available within a reasonable distance from the mobile home park. A mobile home park is not required to use a public water ~~supply system~~ if the water system is more than two thousand (2,000) feet from the mobile home park. If a public water ~~supply~~ system is not available, water shall be provided by a system approved by the environmental commissioner under rules adopted by the water pollution control board.

SECTION 33. IC 16-41-27-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. (a) The construction of a new mobile home park or alteration of an existing mobile home park shall be made only after plans for the proposed construction or alteration have been forwarded to and approved by the state department.

(b) A **public** water ~~supply~~ system may not be constructed or altered in a new or existing mobile home park until plans for the construction or alteration have been forwarded to and approved by the environmental commissioner under rules adopted by the water board.

(c) A sewage collection and disposal system may not be constructed or altered in a new or existing mobile home park until:

(1) plans for construction or alteration of the sewage collection system and any septic tank absorption field have been forwarded to and approved by the state department under rules adopted by the state department; and

(2) plans for construction or alteration of any sewage disposal system other than a septic tank absorption field have been forwarded to and approved by the environmental commissioner under rules adopted by the water board."

Page 16, line 2, delete "IC 13-18-13-4; IC 13-18-13-5; IC 13-18-13-6;" and insert "IC 13-11-2-177; IC 13-11-2-263."

Page 16, delete line 3.

Page 16, line 4, after "agency" insert "**and the department of environmental management**".

Page 16, line 5, after "shall" insert "**jointly**".

Page 16, line 5, delete "implement:" and insert "**implement IC 13-18-22, as added by this act.**".

Page 16, delete lines 6 through 7.

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Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to HB 1329 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 11, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1329 be amended to read as follows:

Page 5, between lines 37 and 38, begin a new paragraph and insert:  
 "SECTION 11. IC 13-15-4-1, AS AMENDED BY P.L.138-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as provided in sections 2, 3, and 6 of this chapter, the commissioner shall approve or deny an application filed with the department after July 1, 1995, within the following number of days:

(1) Three hundred sixty-five (365) days for an application concerning the following:

- (A) A new hazardous waste or solid waste landfill.
- (B) A new hazardous waste or solid waste incinerator.
- (C) A major modification of a solid waste landfill.
- (D) A major modification of a solid waste incinerator.
- (E) A new hazardous waste treatment or storage facility.
- (F) A new Part B permit issued under 40 CFR 270 et seq. for an existing hazardous waste treatment or storage facility.
- (G) A Class 3 modification under 40 CFR 270.42 to a hazardous waste landfill.

(2) Two hundred seventy (270) days for an application concerning the following:

- (A) A Class 3 modification under 40 CFR 270.42 of a hazardous waste treatment or storage facility.
- (B) A major ~~new~~ National Pollutant Discharge Elimination System permit.

(3) One hundred eighty (180) days for an application concerning the following:

- (A) A new solid waste processing or recycling facility.
- (B) A minor ~~new~~ National Pollutant Discharge Elimination System individual permit.
- (C) A permit concerning the land application of wastewater.

(4) One hundred fifty (150) days for an application concerning a minor new National Pollutant Discharge Elimination System general permit.

(5) One hundred twenty (120) days for an application concerning a Class 2 modification under 40 CFR 270.42 to a hazardous waste facility.

(6) Ninety (90) days for an application concerning the following:

- (A) A minor modification to a solid waste landfill or incinerator permit.

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(B) A wastewater facility or water facility construction permit.  
 (7) The amount of time provided for in rules adopted by the air pollution control board for an application concerning the following:

(A) An air pollution construction permit that is subject to 326 IAC 2-2 and 326 IAC 2-3.

(B) An air pollution facility construction permit (other than as defined in 326 IAC 2-2).

(C) Registration of an air pollution facility.

(8) Sixty (60) days for an application concerning the following:

(A) A Class 1 modification under 40 CFR 270.42 requiring prior written approval, to a hazardous waste:

- (i) landfill;
- (ii) incinerator;
- (iii) treatment facility; or
- (iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds one hundred dollars (\$100) and for which a time frame has not been established under section 3 of this chapter.

SECTION 12. IC 13-15-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 12. **(a) For purposes of this section, if:**

**(1) the deadline for approval or denial of a permit application under section 1 of this chapter precedes July 1, 2003; and**

**(2) the commissioner does not approve or deny the permit application before the deadline;**

**the deadline for approval or denial is considered to be July 1, 2003.**

**(b) An applicant may not receive a refund of a permit application fee if:**

**(1) the permit application concerned the renewal of a permit;**

**(2) the expiration date of the permit for which renewal is sought is extended under IC 13-15-3-6; and**

**(3) the applicant applies in writing to the department for a refund.**

**(c) The amount of a refund under this section for a calendar year in which a fee is assessed under IC 13-18-20-13 is the amount determined in STEP FIVE of the following formula:**

**STEP ONE: Determine the later of:**

**(A) January 1 of that calendar year; and**

**(B) the deadline for approval or denial of the permit application under section 1 of this chapter if the deadline**

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falls in that calendar year.

**STEP TWO: Determine the earlier of:**

(A) the date of approval or denial of the permit application under section 1 of this chapter if that date falls in that calendar year; and

(B) December 31 of that calendar year.

**STEP THREE: Determine the number of days after the date determined under STEP ONE and before the date determined under STEP TWO.**

**STEP FOUR: Multiply the amount determined under STEP THREE by the amount of the fee assessed in that calendar year under IC 13-18-20-13.**

**STEP FIVE: Multiply the product determined under STEP FOUR by seven one hundredths percent (.07%)."**

Page 6, between lines 9 and 10, begin a new paragraph and insert:  
**"SECTION 14. IC 13-15-11-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Before September 1 of each even-numbered year, the department shall report to the environmental quality service council:**

**(1) the department's proposed distribution of funds among the programs referred to in section 1 of this chapter for the current state fiscal year;**

**(2) the department's rationale for the proposed distribution;**

**(3) any difference between:**

**(A) the proposed distribution; and**

**(B) the distribution made by the department in the immediately preceding state fiscal year; and**

**(4) the results of an independent audit of the correlation between:**

**(A) the distribution made by the department with respect to; and**

**(B) the department's actual expenses related to; each program referred to in section 1 of this chapter in the immediately preceding state fiscal year."**

Page 21, after line 9, begin a new paragraph and insert:  
**"SECTION 38. An emergency is declared for this act."**  
 Renumber all SECTIONS consecutively.

(Reference is to HB 1329 as printed January 29, 2002.)

AVERY



## COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1329, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.204-2001, SECTION 6, AS AMENDED BY P.L.287-2001, SECTION 1, AND AS AMENDED BY P.L.283-2001, SECTION 1, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

- (1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
- (2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- (3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
- (4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
- (5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
- (6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.
- (7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.
- ~~(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.~~
- ~~(9)~~ (8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.
- ~~(10)~~ (9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.
- ~~(11)~~ (10) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.
- ~~(12)~~ (11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

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~~(13)~~ **(12)** An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

~~(14)~~ **(13)** An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

~~(15)~~ **(14)** An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

~~(16)~~ **(15)** An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

~~(17)~~ **(16)** An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

~~(18)~~ **(17)** An emergency rule adopted by the ~~alcoholic beverage~~ *alcohol and tobacco* commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

~~(19)~~ **(18)** An emergency rule adopted by the department of financial institutions under IC 28-15-11.

~~(20)~~ **(19)** An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

~~(21)~~ **(20)** An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

~~(22)~~ **(21)** *An emergency rule adopted by the office of Medicaid policy and planning under IC 12-17.7-2-6 to implement the uninsured parents program.*

*(22)* An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The

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agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

- (1) accept the rule for filing; and
- (2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

- (1) The effective date of the statute delegating authority to the agency to adopt the rule.
- (2) The date and time that the rule is accepted for filing under subsection (e).
- (3) The effective date stated by the adopting agency in the rule.
- (4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection ~~(a)(14)~~, **(a)(13)**, the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection ~~(a)(14)~~ **(a)(13)** may be extended for two (2) extension periods. Except for a rule adopted under subsection ~~(a)(14)~~, **(a)(13)**, for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), ~~(a)(9)~~, **(a)(8)**, or ~~(a)(13)~~ **(a)(12)** expires on the earlier of the following dates:

- (1) The expiration date stated by the adopting agency in the rule.
- (2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 3. IC 8-9.5-9-2, AS AMENDED BY P.L.273-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "authority" means:

- (1) an authority or agency established under IC 8-1-2.2, ~~or~~ IC 8-9.5 through IC 8-23, **or IC 13-17.5;**

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- (2) the commission established under IC 4-13.5;
- (3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5; or
- (4) a fund or program established under IC 13-18-13 or IC 13-18-21.

SECTION 4. IC 13-11-2-16, AS AMENDED BY P.L.14-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) "Authority", for purposes of IC 13-22-10, refers to the Indiana hazardous waste facility site approval authority.

(b) "Authority", for purposes of IC 13-19-5, refers to the Indiana development finance authority created under IC 4-4-11.

**(c) "Authority", for purposes of IC 13-17.5, IC 13-18-13, IC 13-18-21, and IC 13-18-22, refers to the environmental assistance authority established by IC 13-17.5-1-1.**

SECTION 5. IC 13-11-2-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.5. "Authorized borrower", for purposes of IC 13-17.5, means:**

- (1) a participant (as defined in section 151.1 of this chapter);**
- (2) a state educational institution (as defined in IC 20-12-0.5-1);**
- (3) a leasing body (as defined in IC 5-1-1-1(a));**
- (4) a not-for-profit utility (as defined in IC 8-1-2-125);**
- (5) the Indiana bond bank;**
- (6) a local public improvement bond bank established by IC 5-1.4-2-1;**
- (7) any commission, authority, or authorized body of any authorized borrower;**
- (8) any organization, association, or trust with members, participants, or beneficiaries that are all individually authorized borrowers; or**
- (9) any body corporate and politic, body corporate or politic, commission, authority, or instrumentality of the state.**

SECTION 6. IC 13-11-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) "Board", except as provided in subsections (b) through ~~(j)~~; **(k)**, refers to:

- (1) the air pollution control board;
- (2) the water pollution control board; or
- (3) the solid waste management board.

(b) "Board", for purposes of IC 13-13-6, refers to the northwest Indiana advisory board.



(c) "Board", for purposes of IC 13-17, refers to the air pollution control board.

(d) **"Board", for purposes of IC 13-17.5, refers to the board of directors of the environmental assistance authority.**

(e) "Board", for purposes of IC 13-18, refers to the water pollution control board.

~~(f)~~ (f) "Board", for purposes of:

- (1) IC 13-19;
- (2) IC 13-20, except IC 13-20-18;
- (3) IC 13-22;
- (4) IC 13-23, except IC 13-23-11;
- (5) IC 13-24; and
- (6) IC 13-25;

refers to the solid waste management board.

~~(g)~~ (g) "Board", for purposes of IC 13-20-18, refers to the board of managers of the Indiana institute on recycling.

~~(h)~~ (h) "Board", for purposes of IC 13-21, refers to the board of directors of a solid waste management district.

~~(i)~~ (i) "Board", for purposes of IC 13-23-11, refers to the underground storage tank financial assurance board.

~~(j)~~ (j) "Board", for purposes of IC 13-26, refers to the board of trustees of a regional water, sewage, or solid waste district.

~~(k)~~ (k) "Board", for purposes of IC 13-27 and IC 13-27.5, refers to the clean manufacturing technology board.

SECTION 7. IC 13-11-2-83, AS AMENDED BY P.L.132-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13 **and IC 13-18-21**, refers to an agreement between:

- (1) the ~~budget agency;~~ **authority;** and
- (2) a ~~political subdivision;~~ **participant;**

establishing the terms and conditions of a loan or other financial assistance, including **a guaranty or** forgiveness of principal if allowed under federal law, by the state to the ~~political subdivision;~~ **participant.**

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

- (1) is approved by the budget agency; and
- (2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

~~(c) "Financial assistance agreement", for purposes of IC 13-18-21,~~  
refers to an agreement between:

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(1) the budget agency; and

(2) a participant;

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant.

SECTION 8. IC 13-11-2-93.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 93.5. "Guaranty", for purposes of IC 13-17.5, means a guaranty issued or made by the environmental assistance authority under IC 13-17.5.**

SECTION 9. IC 13-11-2-107.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 107.5. "Indiana bond bank", for purposes of this chapter, IC 13-17.5, IC 13-18-13, and IC 13-18-21, means the Indiana bond bank established by IC 5-1.5."**

Page 4, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 13. IC 13-11-2-151.1, AS ADDED BY P.L.132-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 151.1. (a) "Participant", for purposes of IC 13-18-13 and IC 13-17.5, means a political subdivision or any person, association, trust, or other entity permitted by law to enter contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act.**

**(b) "Participant", for purposes of this chapter and IC 13-18-21 and IC 13-17.5, means:**

(1) a political subdivision; or

(2) any other owner or operator of a public water system;

**except as provided by subsection (c).**

**(c) "Participant", for purposes of IC 13-18-21-21 through IC 13-18-21-29 and IC 13-17.5, means a:**

**(1) political subdivision or other entity described in subsection (a), with respect to a wastewater or stormwater collection and treatment system or any other undertaking designed to improve water quality or abate water pollution; or**

**(2) political subdivision or an owner or operator described in subsection (b), with respect to a public water system."**

Page 5, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 16. IC 13-11-2-197.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 197.6. "Security", for purposes of IC 13-17.5, means:**

**(1) a bond, note, or evidence of indebtedness issued by an**

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**authorized borrower;**

**(2) a lease or certificate or other evidence of participation in the lessor's interest in and rights under a lease with an authorized borrower; or**

**(3) an obligation of an authorized borrower under an agreement between the authorized borrower and the authority."**

Page 7, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 22. IC 13-15-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The commissioner may suspend the processing of an application, and the period described under sections 1 through 6 of this chapter is suspended, if one (1) of the following occurs:

(1) The department determines that the application is incomplete and has mailed a notice of deficiency to the applicant that specifies the parts of the application that:

(A) do not contain adequate information for the department to process the application; or

(B) are not consistent with applicable law.

The period described under sections 1 through 6 of this chapter shall be suspended during the first two (2) notices of deficiency sent to an applicant under this subdivision. If more than two (2) notices of deficiency are issued on an application, the period may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the notice of deficiency. A notice of deficiency may include a request for the applicant to conduct tests or sampling to provide information necessary for the department to process the application. If an applicant's response does not contain complete information to satisfy all deficiencies described in a notice of deficiency, the department shall notify the applicant not later than thirty (30) working days after receiving the response. The commissioner shall resume processing the application, and the period described under sections 1 through 6 of this chapter resumes on the earlier of the date the department receives and stamps as received the applicant's complete information or the date marked by the department on a certified mail return receipt accompanying the applicant's complete information.

(2) The commissioner receives a written request from an applicant to:

(A) withdraw; or

(B) defer processing of;

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the application for the purposes of resolving an issue related to a permit or to provide additional information concerning the application.

(3) The department is required by federal law or by an agreement with the United States Environmental Protection Agency for a federal permit program to transmit a copy of the proposed permit to the administrator of the United States Environmental Protection Agency for review and possible objections before the permit may be issued. The period described under sections 1 through 6 of this chapter shall be suspended from the time the department submits the proposed permit to the administrator for review until:

(A) the department receives the administrator's concurrence or objection to the issuance of the proposed permit; or

(B) the period established in federal law by which the administrator is required to make objections expires without the administrator having filed an objection.

(4) A board initiates emergency rulemaking under ~~IC 4-22-2-37.1(a)(14)~~ **IC 4-22-2-37.1(a)(13)** to revise the period described under sections 1 through 6 of this chapter.

SECTION 23. IC 13-15-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. If the commissioner does not issue or deny a permit within the time specified under sections 1 through 6 of this chapter, the applicant may proceed under this section. ~~Except as provided in section 12 of this chapter,~~ After reaching an agreement with the commissioner or after consulting with the commissioner for thirty (30) days and failing to reach an agreement, the applicant may choose to proceed under one (1) of the following alternatives:

(1) The:

(A) applicant may request and receive a refund of a permit application fee paid by the applicant; and

(B) commissioner shall do the following:

(i) Continue to review the application.

(ii) Approve or deny the application as soon as practicable.

(iii) Refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(2) The:

(A) applicant may:

(i) request and receive a refund of a permit application fee paid by the applicant; and

(ii) submit to the department a draft permit and any required

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supporting technical justification for the permit; and

(B) commissioner shall do the following:

- (i) Review the draft permit.
- (ii) Approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.
- (iii) Refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(3) The:

(A) applicant may require that the department use the permit application fee, **the permit annual fee under IC 13-18-20**, and any additional money needed to hire an outside consultant to prepare a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall:

- (i) review the draft permit; and
- (ii) approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

If additional money is needed to hire an outside consultant under this subdivision, the applicant shall pay the additional money needed to hire the outside consultant."

Page 7, line 20, strike "application" and insert "**annual**".

Page 7, line 21, after "fee" insert "**under IC 13-18-20**".

Page 8, between lines 39 and 40, begin a new paragraph and insert:  
"SECTION 27. IC 13-17.5 IS ADDED TO THE INDIANA CODE  
AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY  
1, 2003]:

**ARTICLE 17.5. ENVIRONMENTAL ASSISTANCE  
AUTHORITY**

**Chapter 1. Establishment and Organization**

**Sec. 1. There is established the environmental assistance authority, a separate body corporate and politic, constituting an instrumentality of the state for the public purposes set out in this article, but not a state agency. The authority is separate from the state in its corporate and sovereign capacity. The purpose of the authority is to carry out the purposes of this article, IC 13-18-13, IC 13-18-21, and IC 13-18-22 by administering:**

- (1) the wastewater revolving loan fund and program;**
- (2) the drinking water revolving loan fund and program;**
- (3) the supplemental drinking water and wastewater assistance fund and program; and**
- (4) the nonpoint source pollution reduction project loan**



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program.

**Sec. 2. (a)** There is established a board of directors to govern the authority. The powers of the authority are vested in the board.

**(b)** The board is composed of:

- (1)** the governor or the governor's designee, who shall serve as chairperson;
- (2)** the treasurer of state or the treasurer's designee;
- (3)** the budget director or the budget director's designee;
- (4)** the commissioner of the department of environmental management or the commissioner's designee; and
- (5)** five (5) directors appointed by the governor.

**(c)** Each of the five (5) directors appointed by the governor:

- (1)** must be a resident of Indiana;
- (2)** serves for a term of three (3) years and until the director's successor is appointed and qualified;
- (3)** is eligible for reappointment;
- (4)** is not entitled to receive the minimum salary per diem provided in IC 4-10-11-2.1(b) while performing the director's duties but is entitled to the same reimbursement for traveling expenses and other expenses actually incurred in connection with the director's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency; and
- (5)** may be removed from the board by the governor and serves at the governor's pleasure.

**(d)** Not more than three (3) of the directors appointed by the governor may be members of the same political party.

**(e)** Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

**Sec. 3.** The board shall:

- (1)** elect one (1) of its members vice chairperson;
- (2)** appoint and fix the duties and compensation of an executive director, who shall serve as both secretary and treasurer;
- (3)** appoint and fix the duties and compensation of a program representative to take official action on behalf of the authority as authorized by trust indentures and other agreements entered into by the authority; and
- (4)** establish and maintain the office of the authority in Indianapolis.



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The board may designate the executive director to serve as program representative or may select another individual to serve in that position.

**Sec. 4.** Five (5) directors constitute a quorum at any meeting of the board.

**Sec. 5.** Action may be taken by the board at a meeting by the affirmative vote of at least five (5) directors. A vacancy on the board does not impair the right of a quorum of directors to exercise the powers and perform the duties of the board.

**Sec. 6. (a)** This section applies to a meeting of the board at which at least five (5) directors are physically present at the place where the meeting is conducted.

**(b)** A director may participate in a meeting of the board by using a means of communication that permits:

- (1)** all other directors participating in the meeting; and
- (2)** all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

**(c)** A director who participates in a meeting under subsection (b) is considered to be present at the meeting.

**(d)** The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each director who:

- (1)** was physically present at the place where the meeting was conducted;
- (2)** participated in the meeting by using a means of communication described in subsection (b); and
- (3)** was absent.

**Sec. 7. (a)** Each director and the executive director must execute a surety bond in an amount specified by the treasurer of state. Each surety bond shall be conditioned upon the faithful performance of the duties of the office of director and executive director, respectively. Instead of these surety bonds, the authority may execute a blanket surety bond covering each director, the executive director, and any officers or employees of the authority.

**(b)** The surety bonds required by this section must be issued by a surety company authorized to transact business in Indiana.

**(c)** The cost of the surety bonds required by this section shall be paid by the authority.

**Sec. 8. (a)** Notwithstanding any other law to the contrary, a director does not violate any law, civil or criminal, if the director:

- (1)** has or, to the director's knowledge, may have or may later

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acquire a direct or indirect pecuniary interest in a contract with the authority; or

(2) is an officer, a member, a manager, a director, or an employee of or has an ownership interest in any firm, limited liability company, or corporation that is or may be a party to the contract;

if the director discloses in writing to the authority or for recording in the minutes of a meeting of the board the nature and extent of the interest as soon as the director has knowledge of the interest and abstains from discussion, deliberation, action, and voting with respect to the contract.

(b) Notwithstanding any provision of this article or any other law, a contract or transaction shall not be void or voidable because of the existence of an interest described in subsection (a) if the provisions of subsection (a) have been satisfied.

**Sec. 9.** The executive director appointed under section 3 of this chapter shall, in addition to other duties fixed by the directors, administer, manage, and direct the employees of the authority. The executive director shall approve all amounts for salaries, allowable expenses of the authority or of any employee or consultant of the authority, and expenses incidental to the operation of the authority. The executive director shall attend the meetings of the board, keep a record of the proceedings of the board, and maintain all books, documents, and papers filed with the authority, the minutes of the board, and the authority's official seal. The executive director may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under seal of the authority to the effect that those copies are true copies, and all persons dealing with the authority may rely upon those certificates.

**Sec. 10. (a)** The authority shall:

(1) adopt a policy establishing a code of ethics for its employees; or

(2) decide to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted under this section must be consistent with state law.

#### **Chapter 2. Powers and Duties**

**Sec. 1.** The authority is granted all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including, but not limited to, the following:

(1) Have a perpetual existence as a body politic and corporate

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and an independent instrumentality, but not a state agency, exercising essential public functions.

(2) Sue and be sued.

(3) Adopt and alter an official seal.

(4) Make and enforce bylaws and guidelines for the conduct of its business and for the use of its services and facilities, which may be adopted by the authority without complying with IC 4-22-2.

(5) Acquire, hold, use, and dispose of its income, revenues, funds, and money.

(6) Acquire, rent, lease, hold, use, and dispose of property for its purposes.

(7) Fix and periodically revise and charge and collect fees and charges for the use of its services or facilities.

(8) Accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the United States, any governmental unit, or any person, carry out the terms or provisions or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants, including entering into grant and operating agreements with the United States Environmental Protection Agency.

(9) Do anything authorized by this article, through its officers, agents, or employees or by contracts with a person.

(10) Procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable.

(11) Cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency, including an authorized borrower.

(12) Make contracts and incur liabilities.

**Sec. 2. The authority may:**

(1) make, enter into, and enforce all contracts and other agreements necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a loan or guaranty to or a lease or an agreement with an authorized borrower;

(B) a purchase, an acquisition, or a sale of securities or other investments; or

(C) the performance of its duties and execution of any of its powers under this article;

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(2) purchase, acquire, or hold securities or other investments for the authority's own account or for an authorized borrower at prices and in a manner the authority considers advisable and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable;

(3) prescribe the form of application or procedure required of an authorized borrower for a loan or guaranty, fix the terms and conditions of the loan, and enter into agreements with authorized borrowers with respect to loans;

(4) charge for its costs and services in review or consideration of a proposed loan or guaranty to an authorized borrower or purchase by the authority of securities, whether the loan or guaranty is made or the securities purchased;

(5) fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including date and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority;

(6) acquire, hold, and lease or sell property to an authorized borrower. The lease or sale under this subdivision may be made under a financing lease, lease with option to purchase, conditional sales contract, or any other form of agreement, upon the terms and conditions that the authority considers advisable in order to promote the purpose of this article; and

(7) appoint and employ general or special counsel, accountants, financial advisers or experts, and all other such or different officers, agents, and employees as it requires and determine their qualifications, duties, and compensation, all in order to effectuate the purposes of this article.

The authority shall not be considered to have engaged in any acts prohibited by this chapter in performing any duty or exercising any power described in this section, IC 13-18-13, IC 13-18-21, or IC 13-18-22.

**Sec. 3.** Money not being used to purchase securities may be invested and reinvested by the authority pending the disbursements of that money:

(1) as provided in a resolution of the authority or in a trust agreement or indenture entered into by the Indiana bond bank under IC 5-1.5; or

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(2) in an account established under IC 13-18-13-2(e) or IC 13-18-21-2(e).

Sec. 4. (a) The authority shall have an audit of its books and accounts made at least once in each year by a certified public accounting firm or the state board of accounts, as determined by the authority. The cost of the audit shall be considered an expense of the authority, and a copy of the audit shall be made available to the public.

(b) The authority shall submit a report of its activities for each fiscal year to the budget committee and the legislative services agency before November 1 of the calendar year in which the authority's fiscal year ends. Each report shall set forth a complete operating and financial statement covering its operations during that fiscal year.

Sec. 5. The board shall adopt, on either a calendar or fiscal year basis, an annual budget, which may be amended periodically during the year.

Sec. 6. All expenses incurred in carrying out this article are payable solely from revenues available under section 3 of this chapter or funds appropriated under this article, and nothing in this article authorizes the authority to incur an indebtedness or liability on behalf of or payable by the state.

Sec. 7. All meetings of the authority shall be open to the public in accordance with and subject to the limitations of IC 5-14-1.5. All records of the authority shall be subject to the requirements of IC 5-14-3."

Page 9, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 29. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of ~~political subdivisions~~ **participants** under this chapter. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections ~~10~~ **10.5** through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.



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(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

- (1) not currently needed to meet the obligations of the fund; and
- (2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency~~ **authority** may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a ~~political subdivision~~ **participant**;
- (4) the Indiana bond bank; ~~or~~
- (5) **the authority**; or
- (6) any person to which **the authority**, the department, the budget agency, or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Clean Water Act, the cost of administering the fund may be paid from the fund.

~~(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.~~

~~(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year."~~

Page 9, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 31. IC 13-18-13-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) Money in the fund may be used to do the following:**

- (1) Provide loans or other financial assistance to participants for:**
  - (A) the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks; or**
  - (B) a nonpoint source pollution reduction project.**
- (2) Pay the cost of administering the fund and the program.**



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(3) Place certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(4) Conduct all other activities that are permitted by the federal Clean Water Act.

(b) For each state fiscal year, the authority may use not more than three percent (3%) of the total amount estimated by the authority to be available for financial assistance from the fund for the year for the combined purposes of:

(1) providing loans or other financial assistance to political subdivisions for nonpoint source pollution reduction projects; and

(2) placing certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(c) Amounts estimated to be available for purposes of subsection (b) for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.

(d) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund or in carrying out the purposes of this chapter.

SECTION 32. IC 13-18-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The ~~department~~ authority shall do the following:

(1) ~~Administer, hold, and~~ manage all aspects of ~~the fund~~, the program, ~~the supplemental fund~~, and the supplemental program ~~except as provided under section 6 of~~ in accordance with this chapter.

(2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided under section 6 of this chapter.~~

(3) Cooperate with ~~the department and~~ the budget agency in the administration and management of the program and supplemental program ~~and~~

~~(4) Cooperate with the budget agency in preparing and providing program information.~~

~~(5) Review~~ (4) Ensure that each proposed financial assistance agreement to determine whether the agreement meets the environmental and technical aspects of the program or supplemental program.

~~(6)~~ (5) Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

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- (B) The federal Clean Water Act.
- (C) Construction plans and specifications.
- ~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency~~; the negotiable aspects of each financial assistance agreement.
- ~~(8)~~ If not accepted and held by the budget agency, ~~Accept and hold any letter of credit from the federal government~~ **(7) Manage any payment systems** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.
- ~~(9)~~ **(8)** Prepare ~~jointly with the budget agency~~; annual reports concerning the following:
  - (A) The fund.
  - (B) The program.
  - (C) The supplemental fund.
  - (D) The supplemental program.
- ~~(10)~~ **(9)** Submit the reports prepared under subdivision ~~(9)~~ **(8)** to the governor, ~~and the general assembly~~.
- ~~(11)~~ Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:
  - ~~(A)~~ The fund.
  - ~~(B)~~ The program.
  - ~~(C)~~ The supplemental fund.
  - ~~(D)~~ The supplemental program.
- the budget committee, and the legislative services agency.
- (10)** Be the point of contact with participants and other interested persons in preparing and providing program information.
- (11)** Prepare or cause to be prepared each financial assistance agreement.
- (12)** Sign each financial assistance agreement.
- (13)** Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

SECTION 33. IC 13-18-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The ~~budget agency~~ **authority** may do the following:

- (1) Employ:
  - (A) fiscal consultants;



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(B) engineers;  
 (C) ~~bond~~ **general** counsel;  
 (D) other special counsel;  
 (E) accountants; and  
 (F) any other consultants, employees, and agents;  
 that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.

(2) Fix and pay the compensation of those persons employed ~~in~~ **under** subdivision (1) from money:

(A) available in the fund or supplemental fund; or  
 (B) otherwise made available for the program or the supplemental program.

**(3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the following:**

**(A) The fund.**  
**(B) The program.**  
**(C) The supplemental fund.**  
**(D) The supplemental program.**

**(4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.**

SECTION 34. IC 13-18-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The ~~department~~ **and the budget agency authority** may:

~~(1) provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services; and~~

~~(2) (1) charge a fee for services provided; and~~

~~(b) The department and the budget agency may~~

**(2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a ~~political subdivision~~ participant under this chapter, regardless of whether the application is approved or rejected.**

~~(c) (b) A political subdivision participant~~ **may pay fees charged under this section.**

SECTION 35. IC 13-18-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) The department~~ **authority** shall use a priority ranking system ~~to recommend in making~~ loans or other financial assistance from the fund. The ~~department~~ **authority, in consultation with the department,** shall develop the



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priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the federal Clean Water Act.

(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of political subdivisions."

Page 10, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 37. IC 13-18-13-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10.5. The authority may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:**

**(1) The loan or other financial assistance must be used:**

**(A) for planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems, for any purpose eligible for assistance under the federal Clean Water Act, and for other activities necessary or convenient to complete these tasks;**

**(B) to:**

**(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A); or**

**(ii) provide interest subsidies;**

**(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction;**

**(D) to pay:**

**(i) consultant, advisory, and legal fees; and**

**(ii) any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program; or**

**(E) for nonpoint source pollution reduction projects.**

**(2) The authority shall establish the terms and conditions that the authority considers necessary or convenient to:**

**(A) make loans; or**

**(B) provide other financial assistance under this chapter.**

**(3) Notwithstanding any other law, the authority may establish and implement requirements that:**

**(A) apply to loans and other financial assistance to be**

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**made to participants that are not political subdivisions;  
and  
(B) are different from or in addition to requirements that  
apply to loans and financial assistance made to political  
subdivisions.**

SECTION 38. IC 13-18-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

- (1) All papers and opinions required by the ~~budget agency~~  
**authority.**
- (2) Unless otherwise provided by ~~rule~~, **the guidelines of the  
authority**, the following:
  - (A) An approving opinion of nationally recognized bond counsel.
  - (B) A certification and guarantee of signatures.
  - (C) A certification that, as of the date of the loan or other financial assistance:
    - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
    - (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.
  - (D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 39. IC 13-18-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. A ~~political subdivision~~ **participant** receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the ~~political subdivision~~ **participant.**

SECTION 40. IC 13-18-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The ~~budget agency~~  
**authority** may sell loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency~~ **authority.** Proceeds of sales under this section shall be deposited in the fund.



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SECTION 41. IC 13-18-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The ~~budget agency authority~~ may pledge loans or evidences of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund to secure:

- (1) other loans or financial assistance from the fund to or for the benefit of ~~political subdivisions~~; **participants**; or
- (2) other loans or financial assistance from the supplemental fund to or for the benefit of ~~political subdivisions~~; **participants**;

to the extent permitted by the federal Clean Water Act.

(b) The ~~budget agency authority~~ must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) **or a pledge of property made by the authority under this section** is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding on the authority.** Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; ~~or~~
- (3) the fund; **or**
- (4) the authority;**

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~; **authority.**

(e) Action taken to:

- (1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.

SECTION 42. IC 13-18-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan, as provided~~



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in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:

- (1) A base or subsidized interest rate that:
  - (A) would be payable by political subdivisions other than political subdivisions described in subdivision (2) or (3); and
  - (B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.
- (2) A base reduced or more heavily subsidized interest rate, that:
  - (A) would be payable by political subdivisions whose median household incomes are:
    - (i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and
    - (ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and
  - (B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater collection and treatment system.
- (3) A base zero (0) or most heavily subsidized interest rate that:
  - (A) would be payable on loans made to political subdivisions whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and
  - (B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater collection and treatment system.

**The authority shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.**

(b) The budget agency, authority, in recommending to the state board of finance **setting** the interest rate or parameters for establishing the interest rate on each loan, ~~under section 10 of this chapter,~~ shall take into account the following:

- (1) Credit risk.
- (2) Environmental enforcement and protection.
- (3) Affordability.
- (4) Other fiscal factors the ~~budget agency~~ **authority** considers relevant, **including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.**

**Based on the factors set forth in subdivisions (1) through (4), more**



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**than one (1) interest rate may be established and used for loans or other financial assistance to different participants or for different loans or other financial assistance to the same participants.**

(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the ~~budget agency's~~ **authority's** request:

- (1) revenue bonds payable from and secured by political subdivisions; and
- (2) loan payments made by and loan payments made to political subdivisions.

~~It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.~~

SECTION 43. IC 13-18-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. The ~~budget agency~~ **authority** shall require that a ~~political subdivision~~ **participant** receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the ~~political subdivision~~ **participant** to:

- (1) operate and maintain the wastewater collection and treatment system; and
- (2) pay the obligations of the system.

SECTION 44. IC 13-18-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

- (1) that is the custodian of money payable to a ~~political subdivision~~ **participant**, other than money in payment for goods or services provided by the ~~political subdivision~~ **participant**; and
- (2) after written notice from the budget director that the ~~political subdivision~~ **participant** is in default on the payment of principal or interest on a loan or evidence of other financial assistance; may withhold payment of money from that ~~political subdivision~~ **participant** and pay over the money to the ~~budget agency~~ **authority** or the Indiana bond bank ~~as directed by the budget director~~, for the purpose of curing the default.

(b) The withholding of payment from the ~~political subdivision~~ **participant** and payment to:



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(1) the ~~budget agency~~; **authority**; or  
 (2) the Indiana bond bank;  
 as applicable, may not adversely affect the validity of the ~~defaulted~~  
 loan or other financial assistance.

SECTION 45. IC 13-18-13-18 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The ~~water pollution~~  
~~control board and the budget agency~~ **authority** may jointly adopt rules  
~~under guidelines, without complying with IC 4-22-2, including~~  
~~emergency rules under IC 4-22-2-37.1, to implement govern the~~  
**administration of this chapter."**

Page 11, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 47. IC 13-18-13-19.5 IS ADDED TO THE INDIANA  
 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2003]: **Sec. 19.5. (a) Notwithstanding any**  
**other law, a political subdivision may borrow money from the**  
**authority by negotiating a loan or other financial assistance**  
**directly and without complying with requirements for the**  
**competitive sale of bonds, notes, or other obligations or evidences**  
**of indebtedness. A political subdivision shall observe any existing**  
**contractual commitments to bondholders or other persons when**  
**entering into a financial assistance agreement.**

**(b) Notwithstanding any other law, a political subdivision may**  
**issue and sell its notes, the principal and accrued interest on which**  
**shall be paid with proceeds from the issuance of its bonds or other**  
**available money at the time the notes are due. The notes must be**  
**issued pursuant to a resolution or an ordinance and the proceeds**  
**must be used to carry out the purposes specified in this chapter.**

**(c) A political subdivision that issues notes under subsection (b)**  
**or IC 4-23-21-13 (before its repeal) may renew or extend the notes**  
**periodically on terms agreed to with the authority, and the**  
**authority may purchase and sell the renewed or extended notes.**  
**Accrued interest on the date of renewal or extension may be paid**  
**or added to the principal amount of the note being renewed or**  
**extended.**

**(d) The notes issued by a political subdivision under subsection**  
**(b), including any renewals or extensions, must mature:**

- (1) in the amounts; and**
- (2) at the times not exceeding four (4) years from the date of**  
**original issuance;**

**that are agreed to by the political subdivision and the authority.**

**(e) Compliance with subsection (b) constitutes full authority for**  
**a political subdivision to issue its notes and sell the notes for the**



benefit of the program, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

- (1) valid and binding obligations of the political subdivision;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

- (1) the provisions of this section; nor
- (2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 48. IC 13-18-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to ~~political subdivisions, participants,~~ the ~~budget agency authority~~ may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the federal Clean Water Act to or for the benefit of ~~political subdivisions, participants,~~ including using money in the fund or the supplemental fund to enhance the obligations of ~~political subdivisions participants~~ issued for the purposes of this chapter by:

- (1) granting money to:
  - (A) be deposited in:
    - (i) a capital or reserve fund established under IC 5-1.5, **IC 13-17.5**, or another statute or a trust agreement or indenture as contemplated by ~~IC 13-18-13-2(c);~~ **section 2(e) of this chapter;** or
    - (ii) an account established within such a fund; or
  - (B) provide interest subsidies;
- (2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a ~~political subdivision participant~~ or for bonds issued by **the authority or** the Indiana bond bank, if credit market access is improved or interest rates are reduced; or
- (3) guaranteeing all or a part of obligations issued by ~~political subdivisions participants~~ or of bonds issued by **the authority or** the Indiana bond bank.



(b) The ~~budget agency authority~~ may enter into any agreements with the Indiana bond bank or ~~political subdivisions~~ **participants** to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state."

Page 15, between lines 29 and 30, begin a new paragraph and insert:  
 "SECTION 60. IC 13-18-21-2, AS AMENDED BY P.L.132-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The drinking water revolving loan fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of participants, including forgiveness of principal if allowed under federal law. **The authority shall administer, hold, and manage the fund.**

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The ~~treasurer of state~~ **authority** shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the ~~budget agency authority~~ may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a participant;

(4) the Indiana bond bank; or

(5) **the authority; or**



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(6) any person to which **the authority**, the department, the budget agency, or a participant is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), the cost of administering the fund and the program may be paid from the fund or from **four percent (4%) of the other money allotted to the state under 42 U.S.C. 300j-12.**

(g) **All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.**

(h) **Money in the fund does not revert to the state general fund at the end of a state fiscal year."**

Page 17, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 62. IC 13-18-21-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. (a) Money in the fund may be used to do the following:**

**(1) Provide loans or other financial assistance to participants for the:**

**(A) planning;**

**(B) designing;**

**(C) construction;**

**(D) renovation;**

**(E) improvement;**

**(F) expansion; or**

**(G) doing of any combination of clauses (A) through (F); for public water systems that will facilitate compliance with national primary drinking water regulations applicable to public water systems under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and other activities necessary or convenient to complete these tasks.**

**(2) Pay the cost of administering the fund and the program.**

**(3) Conduct all other activities that are allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).**

**(b) If an adequate state match is available, the authority may use not more than two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to participants for public water systems serving not more than ten**

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thousand (10,000) persons in Indiana. Funds used under this subsection may not be used for enforcement actions.

(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to participants for public water systems regularly serving less than ten thousand (10,000) persons in Indiana, to the extent that the money can be obligated for eligible projects under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq., the authority shall develop and implement a strategy to assist participants in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. This is all the legal authority required by the state for the authority to ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence.

(e) This chapter does not require the authority to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued to finance the program to lose their exemption from federal income taxation.

(f) The authority may contract with the department, the budget agency, or any other entity or person for assistance in administering the program and the fund and in carrying out the purposes of this chapter.

SECTION 63. IC 13-18-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The ~~department~~ **authority** shall do the following:

- (1) **Administer, hold, and** manage all aspects of **the fund**, the program, ~~except as provided by section 6 of this chapter: and the supplemental program in accordance with this chapter.~~
- (2) Be the point of contact in relations with the United States Environmental Protection Agency. ~~except as provided in section 6 of this chapter.~~
- (3) Cooperate with the **department and the** budget agency in the administration and management of the program **and**
- (4) ~~Cooperate with the budget agency~~ in preparing and providing program information.



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~~(5) Review~~ **(4) Ensure that** each proposed financial assistance agreement ~~to determine whether the agreement~~ meets the environmental and technical aspects of the program.

~~(6)~~ **(5)** Periodically inspect project design and construction to determine compliance with the following:

(A) This chapter.

(B) The federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(C) Construction plans and specifications.

~~(7)~~ **(6)** Negotiate ~~jointly with the budget agency~~; the negotiable aspects of each financial assistance agreement.

~~(8) If not accepted and held by the budget agency~~; **Accept and hold** any letter of credit from the federal government **(7) Manage any payment system** through which the state receives grant payments **from the federal government** for the program and disbursements to the fund.

~~(9)~~ **(8)** Prepare ~~jointly with the budget agency~~; annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

~~(10)~~ **(9)** Submit the reports prepared under subdivision ~~(9)~~ **(8)** to the governor, ~~and the general assembly~~.

~~(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:~~

~~(A) The fund:~~

~~(B) The program:~~

~~(C) The supplemental fund:~~

~~(D) The supplemental program:~~

**the budget committee, and the legislative services agency.**

**(10) Be the point of contact with participants and other interested persons in preparing and providing program information.**

**(11) Prepare or cause to be prepared each financial assistance agreement.**

**(12) Execute each financial assistance agreement.**

**(13) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and**

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**comply with the financial assistance agreement.**

SECTION 64. IC 13-18-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The ~~budget agency~~ **authority** may do the following:

- (1) Employ:
  - (A) fiscal consultants;
  - (B) engineers;
  - (C) ~~bond~~ **general** counsel;
  - (D) special counsel;
  - (E) accountants; and
  - (F) any other consultants, employees, and agents;
 that the ~~budget agency~~ **authority** considers necessary to carry out the purposes of this chapter.
- (2) Fix and pay the compensation of persons employed in subdivision (1) from money:
  - (A) available in the fund; or
  - (B) otherwise made available for the program.
- (3) Enter into memoranda of understanding with the department and the budget agency concerning the administration and management of the fund and the program.**
- (4) Provide services to a participant in connection with a loan or other financial assistance, including advisory and other services.**

SECTION 65. IC 13-18-21-8, AS AMENDED BY P.L.132-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The ~~department and the budget agency~~ **authority** may:

- ~~(1) provide services to a participant in connection with a loan or other financial assistance, including advisory and other services; and~~
- ~~(2) (1) charge a fee for services provided; (b) The department and the budget agency may and~~
- (2) charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a participant, regardless of whether the application is approved or rejected.**
- ~~(c) (b) A political subdivision participant~~ **may pay fees charged under this section.**

SECTION 66. IC 13-18-21-9, AS AMENDED BY P.L.132-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) The department~~ **authority** shall use a



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priority ranking system ~~to recommend in making~~ loans or other financial assistance from the fund. The ~~department~~ **authority** shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

~~(b) Based on the recommendations made under subsection (a); the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of participants.~~

SECTION 67. IC 13-18-21-10, AS AMENDED BY P.L.132-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The ~~budget agency~~ **authority** may make loans or provide other financial assistance from the fund to or for the benefit of a participant under the following conditions:

- (1) The loan or other financial assistance must be used:
  - (A) for planning, designing, constructing, renovating, improving, and expanding public water systems, **for any purpose eligible for assistance under the federal Safe Drinking Water Act**, and for other activities necessary or convenient to complete these tasks;
  - (B) to:
    - (i) establish **guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by clause (A);** or
    - (ii) provide interest subsidies;
  - (C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or
  - (D) to pay the following:
    - (i) Consultant, advisory, and legal fees.
    - (ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.
- ~~(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.~~
- ~~(3)~~ **(2)** The ~~budget agency~~ **authority** shall establish the terms and conditions that the ~~budget agency~~ **authority** considers necessary



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or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

~~(4)~~ **(3)** Notwithstanding any other law, the ~~budget agency~~ **authority** may establish and implement requirements that:

(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and

(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.

SECTION 68. IC 13-18-21-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. A loan or other financial assistance from the fund must be accompanied by the following:

(1) All papers and opinions required by the ~~budget agency~~ **authority**.

(2) Unless otherwise provided by ~~rule~~, **the guidelines of the authority**, the following:

(A) An approving opinion of nationally recognized bond counsel.

(B) A certification and guarantee of signatures.

(C) A certification that, as of the date of the loan or other financial assistance:

(i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or

(ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.

(D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

SECTION 69. IC 13-18-21-13, AS AMENDED BY P.L.132-1999, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The ~~budget agency~~ **authority** may sell loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the ~~budget agency~~ **authority**. Proceeds of sales under this section shall be deposited in the fund.



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SECTION 70. IC 13-18-21-14, AS AMENDED BY P.L.132-1999, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The ~~budget agency~~ **authority** may pledge loans or evidence of other financial assistance and other obligations of participants evidencing the loans or other financial assistance from the fund to secure:

- (1) other loans or financial assistance from the fund to or for the benefit of participants; or
- (2) other loans or financial assistance from the supplemental fund to or for the benefit of participants;

to the extent allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) The ~~budget agency~~ **authority** must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made **by the department and the budget agency under this section, or a pledge of property made by the authority** under this section, is binding from the time the pledge is made. **Any pledge of property made by the department and the budget agency under this section is binding on the authority.** Revenues, other money, or other property pledged and **thereafter** received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; ~~or~~
- (3) the fund; ~~or~~
- (4) the authority;**

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~ **authority.**

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 71. IC 13-18-21-15, AS AMENDED BY P.L.132-1999, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) ~~In recommending to the state board of finance the interest rate or parameters for establishing the interest rate~~

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on each loan (other than a loan to a qualified entity described in IC 13-11-2-164(b)(4)); as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:

- (1) A base or subsidized interest rate that:
  - (A) would be payable by participants other than participants described in subdivision (2) or (3); and
  - (B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.
- (2) A base reduced or more heavily subsidized interest rate that:
  - (A) is payable by a participant with median household incomes that are:
    - (i) not more than the state median household income for an area that is not a metropolitan area, as determined and reported periodically by the federal government; and
    - (ii) not less than eighty-one percent (81%) of the state median household income for an area that is not a metropolitan area; and
  - (B) may provide that payment of interest is not required during all or part of the estimated construction period for the public water system.
- (3) A base of zero (0) or the most heavily subsidized interest rate that:
  - (A) would be payable on loans made to participants with median household incomes that are not more than eighty percent (80%) of the state household income for an area that is not a metropolitan area; and
  - (B) may provide that payment of interest is not required during all or part of the estimated construction period of the public water system.

**The authority shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.**

(b) The budget agency, authority, in recommending to the state board of finance **setting** the interest rate or parameters for establishing the interest rate on each loan, (including all loans to participants that are not political subdivisions) under section 10 of this chapter, may take into account the following:

- (1) Credit risk.
- (2) Environmental, water quality, and health protection.
- (3) Affordability.



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- (4) Other fiscal factors the **budget agency authority** considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans **made or other financial assistance** to different participants in the same interest rate category.

(c) In financing the program, the Indiana bond bank, and the Indiana development finance authority shall issue at the budget agency's request:

- (1) revenue bonds payable from and secured by participants; and
- (2) loan payments made by and to participants.

The budget agency or the state board of finance is not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program: **or for different loans or other financial assistance to the same participants.**

SECTION 72. IC 13-18-21-16, AS AMENDED BY P.L.132-1999, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. The **budget agency authority** shall require a participant receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the participant to:

- (1) operate and maintain the public water system; and
- (2) pay the obligations of the public water system.

SECTION 73. IC 13-18-21-17, AS AMENDED BY P.L.132-1999, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a participant, other than money in payment for goods or services provided by the participant, may withhold payment of money from that participant and pay over the money to the **budget agency authority** or the Indiana bond bank as **directed by the budget director**, for the purpose of curing a default. **Withholding payment under this subsection may not occur until after written notice from the budget director that the participant is in default on the payment of principal or interest on a loan or evidence of other financial assistance.**

- (b) The withholding of payment from the participant and payment

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to:

- (1) the ~~budget agency~~; **authority**; or
- (2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the ~~defaulted~~ loan or other financial assistance.

SECTION 73. IC 13-18-21-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The ~~water pollution control board and the budget agency~~ **authority** may jointly adopt ~~rules under guidelines, without complying with IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement govern the administration of this chapter.~~"

Page 18, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 76. IC 13-18-21-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19.5. (a) Notwithstanding any other law, a political subdivision may borrow money under this chapter by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) may renew or extend the notes periodically on terms agreed to with the authority, and the authority may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

- (1) in the amounts; and
- (2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the authority.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue notes and sell the notes for the

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benefit of the program, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of the notes. The notes are:

- (1) valid and binding obligations of the political subdivision;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

- (1) provisions of this section; or
- (2) actual issuance by a political subdivision of notes under subsection (b);

**do not relieve the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.**

SECTION 77. IC 13-18-21-20, AS AMENDED BY P.L.132-1999, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to participants, the ~~budget agency~~ **authority** may use the money in the fund to provide a leveraged loan program and other financial assistance programs allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) to or for the benefit of participants, including using money in the fund or a supplemental fund, including the supplemental fund established by section 22 of this chapter, to enhance the obligations of participants issued for the purposes of this chapter by:

- (1) granting money to:
  - (A) be deposited in:
    - (i) a capital or reserve fund established under IC 5-1.5, **IC 13-17.5**, or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or
    - (ii) an account established within a fund described in item (i); or
  - (B) provide interest subsidies;
- (2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the Indiana bond bank ~~or the Indiana development finance authority~~ if credit market access is improved or interest rates are reduced; or
- (3) guaranteeing all or part of:
  - (A) obligations issued by participants; or



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(B) bonds issued by the Indiana bond bank. ~~or the Indiana development finance authority.~~

(b) The ~~budget agency authority~~ may enter into any agreements with the Indiana bond bank ~~the Indiana development finance authority~~, or participants to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 78. IC 13-18-21-22, AS AMENDED BY P.L.132-1999, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The supplemental drinking water and wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the benefit of ~~(1)~~ participants for the purposes described in section ~~23(1)~~ of this chapter; **23.5(1)** and ~~(2)~~ political subdivisions for the purposes described in section ~~23(2)~~ **23.5(2)** of this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections ~~25~~ **25.5** through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the ~~budget agency authority~~ may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to **the authority**, the department, the budget agency, a participant, the Indiana bond

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bank, or any other person as provided in the trust agreement or indenture. The state board of finance must approve the form of any trust agreement or indenture before execution.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year."

Page 19, between lines 7 and 8, begin a new paragraph and insert:  
 "SECTION 80. IC 13-18-21-23.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 23.5. (a) Subject to subsection (b), money in the supplemental fund may be used to do the following:**

**(1) Provide grants, loans, or other financial assistance to or for the benefit of participants for the planning, designing, acquisition, construction, renovation, improvement, or expansion of public water systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.**

**(2) Provide grants, loans, or other financial assistance to or for the benefit of participants for:**

**(A) the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or storm water collection and treatment systems;**

**(B) nonpoint source pollution reduction projects; and**

**(C) other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.**

**(3) Provide grants to participants for tasks associated with the development and preparation of:**

**(A) long term control plans;**

**(B) use attainability analyses; and**

**(C) storm water management programs.**

**(4) Pay the cost of administering the supplemental fund and the supplemental program.**

**(5) Place certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.**

**(6) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water**

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(b) Not more than twenty-five percent (25%) of the financial assistance provided from the fund during each state fiscal year may be provided to participants that are not political subdivisions.

(c) For any state fiscal year, the authority may use not more than three percent (3%) of the amount estimated by the authority to be available for financial assistance from the supplemental fund for the year for the combined purposes of:

- (1) providing loan assistance to political subdivisions for nonpoint source pollution reduction projects; and
- (2) placing certificates of deposit for the nonpoint source pollution reduction project loan program under IC 13-18-22.

(d) Amounts estimated to be available for purposes of subsection (c) for any year that remain unused at the end of the year may be carried forward for use in any subsequent state fiscal year.

SECTION 81. IC 13-18-21-24, AS AMENDED BY P.L.132-1999, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. The ~~budget agency~~ **authority** shall develop criteria to ~~recommend~~ **make or provide** grants, loans, or other financial assistance from the supplemental fund."

Page 20, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 83. IC 13-18-21-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25.5 (a) The authority may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a participant under the following conditions:

- (1) A grant, loan, or other financial assistance may be used:
  - (A) for planning, designing, acquiring, constructing, renovating, improving, or expanding public water systems, and other activities necessary or convenient to complete these tasks;
  - (B) to:
    - (i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the supplemental fund (including financial institutions) for a purpose permitted by clause (A); or
    - (ii) provide interest subsidies;
  - (C) to pay financing charges, including interest on the loan



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during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The authority must establish the terms and conditions that the authority considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

(b) In addition to its powers under subsection (a), the authority may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a participant under the following conditions:

(1) A grant, loan, or other financial assistance may be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or storm water collection and treatment systems and nonpoint source pollution reduction projects and other activities necessary or convenient to complete the tasks referred to in this clause;

(B) to:

(i) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the supplemental fund (including financial institutions) for a purpose permitted by clause (A); or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) A grant may be used for tasks associated with the development and preparation of:

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- (A) long term control plans;
- (B) use attainability analyses; and
- (C) storm water management programs.

**(3) The authority must establish the terms and conditions that the authority considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.**

SECTION 84. IC 13-18-21-26, AS AMENDED BY P.L.132-1999, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the ~~budget agency~~ **authority**.

(b) ~~Unless otherwise provided by rule,~~ **The authority may require that** a loan or other financial assistance ~~must~~ be accompanied by the following:

- (1) A certification and guarantee of signatures.
- (2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:
  - (A) the grant, loan, or other financial assistance; or
  - (B) any security for the loan or other financial assistance.

~~(c) The budget agency may require~~

**(3) Any other certifications, agreements, security, or requirements that the authority requests.**

**(4) An approving opinion of nationally recognized bond counsel.**

SECTION 85. IC 13-18-21-28, AS AMENDED BY P.L.132-1999, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The ~~budget agency~~ **authority** may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

- (1) periodically;
- (2) at any price; and
- (3) on terms acceptable to the ~~budget agency~~ **authority**.

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, the wastewater revolving loan fund, or the fund at the direction of the ~~budget director~~ **authority**.

SECTION 86. IC 13-18-21-29, AS AMENDED BY P.L.132-1999, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) The ~~budget agency~~ **authority** may pledge:

- (1) loans or evidences of other financial assistance; and
- (2) other obligations evidencing the loans or other financial

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assistance;

from the supplemental fund to secure other loans or financial assistance from the fund, the wastewater revolving loan fund, or the supplemental fund for the benefit of participants.

(b) The terms of a pledge under this section must be acceptable to the ~~budget agency~~ **authority**.

(c) Notwithstanding any other law, a pledge of property made by the ~~budget agency~~ **authority** under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the ~~department~~ **authority**;
- (2) the budget agency; or
- (3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the ~~budget agency~~ **authority**.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state."

Page 23, between lines 2 and 3, begin a new paragraph and insert:  
"SECTION 88. IC 13-18-22.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 22.5. Nonpoint Source Pollution Reduction Project Loan Program**

**Sec. 1. (a) A financial institution may apply to the authority for eligibility to receive certificates of deposit under section 6 of this chapter. Upon receipt of the application, the authority shall:**

- (1) review the applicant's ability to comply with this chapter; and**
- (2) based on the review, accept or reject the application.**

**(b) A financial institution approved to receive certificates of deposit under section 6 of this chapter shall accept and review applications for loans under section 2 of this chapter from private entities for nonpoint source pollution reduction projects. A financial institution shall apply usual lending standards to**



determine the credit worthiness of each loan applicant and may:

- (1) reject a loan application; or
- (2) preliminarily approve a loan application, subject to final approval by the authority under section 6 of this chapter.

**Sec. 2. (a)** A private entity may apply to a financial institution approved under section 1 of this chapter for a loan for a nonpoint source pollution reduction project.

**(b)** On its loan application under subsection (a), a private entity shall:

- (1) identify the nonpoint source pollution reduction project for which the loan is intended; and
- (2) certify that the reduced rate loan will be used exclusively for that project.

**Sec. 3.** A financial institution that receives a loan application under section 2 of this chapter shall forward the loan application to:

- (1) the authority in the form and manner prescribed by the authority; and
- (2) the department in the form and manner prescribed by the department.

**Sec. 4.** The department shall recommend to the authority a priority ranking system for approving loans under this chapter to achieve optimum water quality consistent with the water quality goals of the state and the federal Clean Water Act.

**Sec. 5.** The authority shall:

- (1) considering the recommendation of the department under section 4 of this chapter, develop a priority ranking system for approving loans under this chapter; and
- (2) use the priority ranking system developed under subdivision (1) in approving loans under this chapter.

**Sec. 6. (a)** The authority may accept or reject:

- (1) a loan application received under section 3 of this chapter; or
- (2) any part of the application.

**(b)** Upon acceptance of a loan application received under section 3 of this chapter or any part of the application, the authority shall place a certificate of deposit with the financial institution at three percent (3%) below current market rates, as determined and calculated by the authority. The authority shall transfer funds for the certificate of deposit from:

- (1) the wastewater revolving loan fund established by IC 13-18-13-2; or



(2) the supplemental drinking water and wastewater assistance fund established by IC 13-18-21-22.

(c) The authority may place a certificate of deposit with a financial institution before acceptance of a loan application.

(d) The financial institution in which a certificate of deposit is placed under this section shall enter into a deposit agreement with the authority that includes:

- (1) the period in which the financial institution is to lend funds as provided in section 7 of this chapter upon the placement of the certificate of deposit;
- (2) the interest payment schedule determined by the authority;
- (3) a provision for the certificate of deposit to be placed for a maturity of not more than two (2) years, as determined by the authority;
- (4) a provision for the certificate of deposit to be renewed for up to two (2) years at the option of the authority; and
- (5) any other provisions required by the authority.

Sec. 7. (a) Upon the placement of a certificate of deposit with a financial institution under section 6 of this chapter, the financial institution shall lend the funds received for the certificate of deposit to each approved private entity listed in the loan application in accordance with the deposit agreement required by section 6 of this chapter. The loan shall be at three percent (3%) below current market rates, as determined and calculated by the authority.

(b) A financial institution in which a certificate of deposit is placed under section 6 of this chapter shall certify compliance with this chapter to the authority in the form and manner prescribed by the authority.

Sec. 8. The authority shall:

- (1) take all steps necessary to implement the loan program under this chapter; and
- (2) monitor compliance of financial institutions and loan recipients.

Sec. 9. The authority shall report annually before January 10 on the loan program under this chapter for the preceding calendar year to:

- (1) the governor; and
- (2) the legislative council.

Sec. 10. (a) The state and the authority are not liable to any financial institution in any manner for payment of the principal or

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interest on the loan to a private entity under this chapter.

**(b) Any delay in payments or default on the part of a private entity does not affect the deposit agreement under section 6 of this chapter."**

Page 23, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 92. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 13-18-13-3; IC 13-18-13-4; IC 13-18-13-6; IC 13-18-13-10; IC 13-18-13-19; IC 13-18-21-3; IC 13-18-21-4; IC 13-18-21-6; IC 13-18-21-19; IC 13-18-21-23; IC 13-18-21-25; IC 13-18-22.

SECTION 93. [EFFECTIVE JULY 1, 2003] **(a) On July 1, 2003, all powers, duties, agreements, and liabilities of the treasurer of state, the department of environmental management, and the budget agency with respect to:**

- (1) the wastewater revolving loan program established by IC 13-18-13-1;**
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and**
- (3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;**

**are transferred to the environmental assistance authority as the successor for the limited purposes described in subdivisions (1) through (3) and for the purposes described in IC 13-17.5, as added by this act.**

**(b) On July 1, 2003, all records, money, and other property of the treasurer of state, the department of environmental management, and the budget agency with respect to:**

- (1) the wastewater revolving loan program established by IC 13-18-13-1;**
- (2) the drinking water revolving loan program established by IC 13-18-21-1; and**
- (3) the supplemental drinking water and wastewater assistance program established by IC 13-18-21-21;**

**are transferred to the environmental assistance authority as the successor for the limited purposes described in subdivisions (1) through (3) and for the purposes described in IC 13-17.5, as added by this act.**

**(c) After June 30, 2003, 85 IAC 1, 85 IAC 2, 327 IAC 13, and 327 IAC 14 are void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove these articles from the Indiana Administrative Code.**

**(d) After June 30, 2003, any proposed rules amending 85 IAC 1,**



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**85 IAC 2, 327 IAC 13, or 327 IAC 14 that were officially proposed and published in the Indiana Register before July 1, 2003, shall be treated as if they were withdrawn under IC 4-22-2-41.**

**SECTION 94. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 13-17.5-1-2, as added by this act, the initial terms of office of the five (5) members appointed by the governor to the board of directors of the environmental assistance authority are as follows:**

**(1) Two (2) members shall serve a term of two (2) years.**

**(2) Three (3) members shall serve a term of three (3) years.**

**(b) This SECTION expires July 1, 2006."**

**Page 23, line 35, delete "budget agency" and insert "environmental assistance authority shall make guidelines".**

**Page 23, delete line 36.**

**Page 23, line 37, delete "adopt rules".**

**Re-number all SECTIONS consecutively.**

and when so amended that said bill do pass.

(Reference is to HB 1329 as reprinted February 1, 2002.)

GARD, Chairperson

Committee Vote: Yeas 6, Nays 2.

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